

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:
City of Detroit, Michigan,
Debtor.

Bankruptcy Case No. 13-53846
Judge Thomas J. Tucker
Chapter 9

**H.D.V. GREEKTOWN, LLC, 415 EAST CONGRESS, LLC, AND K&P,
INCORPORATED'S MOTION TO RECONSIDER ORDER GRANTING
THE CITY OF DETROIT'S MOTION FOR THE ENTRY OF AN ORDER
ENFORCING THE PLAN OF ADJUSTMENT INJUNCTION AGAINST
H.D.V. GREEKTOWN, LLC, 415 EAST CONGRESS, LLC, AND K&P,
INCORPORATED [12863]**

NOW COMES, H.D.V. Greektown, LLC, 415 East Congress, LLC, and K&P, Incorporated (the “Cabarets”), by and through undersigned counsel, and pursuant to Rule 9024-1, hereby moves the Court to Reconsider its *Order Granting City of Detroit's Motion for the Entry of an Order Enforcing the Plan of Adjustment Injunction Against H.D.V. Greektown, LLC, 415 East Congress, LLC, and K&P, Incorporated* [Doc. 12863] (the “Order”) and to deny the City of Detroit’s Motion in its entirety. In support of the present motion the Cabarets rely on the brief in support submitted herewith as Exhibit 3.

Dated: August 16, 2018

Respectfully submitted,

s/ Matthew J. Hoffer
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Attorney for Creditors
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415 East Congress, LLC; and
K&P, Incorporated

EXHIBIT LIST

| | |
|-------------|--|
| Exhibit 1 | Proposed Order |
| Exhibit 2 | N/A |
| Exhibit 3 | Brief in Support of Motion |
| Exhibit 4 | Certificate of Service |
| Exhibit 5 | Declaration of Matthew J. Hoffer, Esq. |
| Exhibit 6-1 | Docket Report in <u>H.D.V. Greektown, LLC v. City of Detroit</u> , 2:06-cv-11282-AJT-RSW |
| Exhibit 6-2 | Notice of Suggestion of Pendency of Bankruptcy Case and Application of the Automatic Stay in <u>H.D.V. Greektown, LLC v.</u> <u>City of Detroit</u> , 2:06-cv-11282-AJT-RSW |
| Exhibit 6-3 | Order Adopting Report and Recommendation [162], Overruling Plaintiffs' Objection [164], and Granting in Part Plaintiffs' Motion for Attorney Fees and Costs [148] in <u>H.D.V. Greektown,</u> <u>LLC v. City of Detroit</u> , 2:06-cv-11282-AJT-RSW |

EXHIBIT 1

Proposed Order

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

| | |
|---|---|
| In re: City of Detroit, Michigan, Debtor. | Bankruptcy Case No. 13-53846 Judge Thomas J. Tucker Chapter 9 |
|---|---|

**[PROPOSED] ORDER RE H.D.V. GREEKTOWN, LLC, 415 EAST
CONGRESS, LLC, AND K&P, INCORPORATED'S MOTION TO
RECONSIDER ORDER GRANTING THE CITY OF DETROIT'S MOTION
FOR THE ENTRY OF AN ORDER ENFORCING THE PLAN OF
ADJUSTMENT INJUNCTION AGAINST H.D.V. GREEKTOWN, LLC, 415
EAST CONGRESS, LLC, AND K&P, INCORPORATED [12863]**

The matter having come before the Court by way of *H.D.V. Greektown, LLC, 415 East Congress, LLC, and K&P, Incorporated's Motion to Reconsider Order Granting City of Detroit's Motion for the Entry of an Order Enforcing the Plan of Adjustment Injunction Against H.D.V. Greektown, LLC, 415 East Congress, LLC, and K&P, Incorporated* (the “Motion for Reconsideration”) upon proper notice and the Court being duly informed in the premises thereof, and the Court finding that there exists sufficient and good cause for the to grant the relief requested,

THE COURT ORDERS THAT:

1. The Motion for Reconsideration is granted;
2. The City of Detroit's Motion for the Entry of an Order Enforcing the Plan of Adjustment Injunction Against H.D.V. Greektown, LLC, 415 East

Congress, LLC, and K&P, Incorporated [Doc. 12852] is DENIED in full, including all relief requested therein; and

3. This Order supercedeas in full the Court's *Order Granting City of Detroit's Motion for the Entry of an Order Enforcing the Plan of Adjustment Injunction Against H.D.V. Greektown, LLC, 415 East Congress, LLC, and K&P, Incorporated* [Doc. 12863], which is hereby VACATED.

EXHIBIT 3
Brief In Support of Motion

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re:
City of Detroit, Michigan,
Debtor.

Bankruptcy Case No. 13-53846
Judge Thomas J. Tucker
Chapter 9

**BRIEF IN SUPPORT OF H.D.V. GREEKTOWN, LLC, 415 EAST
CONGRESS, LLC, AND K&P, INCORPORATED'S MOTION TO
RECONSIDER ORDER GRANTING THE CITY OF DETROIT'S MOTION
FOR THE ENTRY OF AN ORDER ENFORCING THE PLAN OF
ADJUSTMENT INJUNCTION AGAINST H.D.V. GREEKTOWN, LLC, 415
EAST CONGRESS, LLC, AND K&P, INCORPORATED [12863]**

INTRODUCTION

The Cabarets' pending appeal before the Sixth Circuit will determine the amount of damages subject to the approved, operative Plan of Adjustment and does not seek to violate any order of this Court. It only seeks to determine the liquidated amount subject to the Plan of Adjustment. City of Detroit's Motion for the Entry of an Order Enforcing the Plan of Adjustment Injunction Against H.D.V. Greektown, LLC, 415 East Congress, LLC, and K&P, Incorporated [Doc. 12852].

In addition, the Court should reconsider its Order [Doc. 12863] due to circumstances that prevented counsel for the Cabarets from submitting a timely response and because the absence of the response produced an order which is inequitable and contrary to law.

STATEMENT OF FACTS

The Lawsuit

Cabarets' lawsuit, the City of Detroit (H.D.V. Greektown, LLC v. City of Detroit, 2:06-cv-11282-AJT-RSW (the "Lawsuit")), was originally filed on March 28, 2016. [**Exhibit 6-1**, Lawsuit Docket Report, p. 5, Entry No. 1]. Following a settlement of the substance of the Lawsuit by way of a consent decree on August 23, 2011 [**Ex. 6-1**, p. 18, Entry No. 145], Cabarets filed a motion for attorney fees and costs on October 4, 2011 [Id., Entry No. 148]. Nearly two years later, on May 23, 2013, the magistrate judge entered a report and recommendation on the motion and Cabarets objected on June 5, 2013.

During the pendency of those objections, on August 20, 2013, the City filed a "Notice of Suggestion of Pendency of Bankruptcy Case and Application of the Automatic Stay" [**Exhibit 6-2**]. On August 23, 2013, the district court ordered a stay subject to the completion of the bankruptcy proceedings. [**Ex. 6-1**, Lawsuit Docket Report, p. 21 (Text-Only Order)].

Thereafter, on May 31, 2015, the district court entered an order adopting the report and recommendation. [**Exhibit 6-3**]. That order noted that "[i]n December, 2014, the municipal Defendant emerged from bankruptcy; accordingly, the Court will now issue its ruling . . ." [Id.]. Cabarets appealed to the Sixth Circuit and

received a favorable opinion and mandate. See H.D.V. – Greentown, LLC v. City of Detroit, 660 Fed. Appx. 375 (6th Cir. Aug. 23, 2016).

Following the remand, the Cabarets renewed their request for attorney fees and costs on September 20, 2016. [**Ex. 6-1**, Lawsuit Docket Report, p. 21, Entry No. 174]. The matter was referred to the magistrate, who entered an order granting the motion in part, and denying in part. [Id. at p. 22, Entry No. 179]. Cabarets objected and the court entered an order adopting in part the report and recommendation. [Id. at Entry No. 182]. The Cabarets then appealed to the Sixth Circuit (the “Appeal” being H.D.V. – Greektown, LLC v. City of Detroit, Sixth Circuit Case No 18-1203), which is now the subject of Detroit’s Motion.

At no time since Cabarets’ filing of their renewed motion for attorney fees, after the remand (September 20, 2016) and until the present Motion, did the City contend that Cabarets were enjoined from seeking an enhancement of attorney fees and costs under Perdue v. Kenny A. ex rel. Winn, 559 U.S. 542 (2010).

The Motion to Reconsider

The City’s Motion was filed on July 11, 2013 and received by counsel for the Cabarets on July 13, 2013. [**Exhibit 5**, Declaration of Matthew J. Hoffer, Esq. (“Hoffer Dec.”), ¶ 7]. Counsels for the Cabarets, Bradley J. Shafer and Matthew J. Hoffer were out-of-state at a conference from July 11, 2018 through July 17, 2018, where each served as a presenter. [Id. at ¶ 5]. Mr. Shafer traveled to San Diego the

following week for a mediation in a class action matter. [Id. at ¶ 6]. Mr. Hoffer concentrated his efforts on preparing and finalizing an opening brief in a matter before the Ninth Circuit, which was ultimately filed on July 31, 2018. [Id. at ¶ 8].

Nevertheless, Mr. Hoffer tasked a law clerk with verifying that no special admission was required to practice in bankruptcy court and to verify that a CM/ECF login and password were on file for Mr. Shafer for this Court. [Id. at ¶ 9] A response to the Motion was prepared for filing, but on Mr. Hoffer's attempt to file on behalf of Mr. Shafer, he was unable to login because the login information was invalid. [Id. at ¶ 10].

Mr. Hoffer contacted the City to request an extension to rectify the e-filing issue, which the City denied. Unable to request an extension electronically, Mr. Hoffer modified and physically signed the documents and overnighted them for filing with the Court. [Id. at ¶ 11]. The filing was rejected for failure to request leave to file in the traditional fashion, and a subsequent attempt to file was rejected for failure of the application to include a proposed order. [Id. at ¶ 12]. Upon receiving the Court's Order granting the Motion on August 9, 2018, Mr. Hoffer calculated the due date for reconsideration under Rule 9024-1, and began the process of becoming a registered e-filer with the Court. [Id. at ¶ 1].

ARGUMENT

I. BECAUSE THE ISSUE RELATES TO DETERMINING THE LIQUIDATED AMOUNT SUBJECT TO THE PLAN OF ADJUSTMENT, OBJECTORS ARE NOT PRECLUDED FROM REQUESTING AN ENHANCEMENT OF ATTORNEY FEES.

Cabarets are not asking the Sixth Circuit to violate or set aside the Plan of Adjustment approved by this Court. Rather, the Cabarets are asking the Sixth Circuit to determine whether a municipal bankruptcy is an “exceptional circumstance,” under the rubric of Perdue v. Kenny A. ex rel. Winn, 559 U.S. 542 (2010). Any award of fees for the times relevant¹ to the Plan of Adjustment will still be subjected to it. Therefore, Cabarets are not seeking to violate the Plan of Adjustment in any manner, and Detroit’s Motion should be denied.

The liquidated amount of Cabarets’ claim for attorney fees and costs has been left for determination by the district court, subject to appeals to courts of competent jurisdiction. At no point before or after the district court magistrate issued – after the bankruptcy stay – its report and recommendation on the request for attorney fees, did the City argue that it was improper for the Cabarets to be proceeding before the district court to determine the liquidated amount.

¹ Cabarets have also incurred attorney fees and costs on their first successful appeal to the Sixth Circuit, which occurred after the City “emerged from bankruptcy” in 2014.

Now for the first time after years of litigation in the district court, and the filing of Cabarets' principle brief in the Appeal, the City essentially argues that the Plan of Adjustment limits the arguments Cabarets may raise to determine liquidated amount of their request for attorney fees and costs under 42 U.S.C. § 1988. The City cites no authority for this proposition.

Cabarets' argument to the district court and the Sixth Circuit involves the valuation of claims under the attorney fee provisions of the Civil Rights Act, being 42 U.S.C. § 1988. That statutory provision provides that in an action to enforce certain federal civil rights provisions, the court may award the prevailing party a reasonable attorney's fee as part of the costs to be borne by the losing party.

The lodestar method--which multiplies the reasonable number of hours spent working on a case by the reasonable hourly billing rate--is generally used to calculate attorney fees under § 1988. Pennsylvania v. Delaware Valley Citizens' Council for Clean Air, 478 U.S. 546, 565, 106 S. Ct. 3088, 3098, 92 L. Ed. 2d 439 (1986) ("Delaware Valley I"), supplemented, 483 U.S. 711, 107 S. Ct. 3078, 97 L. Ed. 2d 585 (1987) ("Delaware Valley II").

In Perdue v. Kenny A. ex rel Winn, the Supreme Court held that a reasonable fee for the purposes of 42 U.S.C. § 1988 is one that "is sufficient to induce a capable attorney to undertake the representation of a meritorious civil rights case." 559 U.S. 542, 552 (2010). This Court has similarly held that the statute should be construed

liberally in order to effectuate its purpose. Seals v. Quarterly County Court of Madison County, Tennessee, 562 F.2d 390, 393 (6th Cir. 1977).

In Perdue, the Supreme Court recognized that the “rare and exceptional circumstances” supporting a fee enhancement may include “exceptional delay in the payment of fees,” especially “where the delay is unjustifiably caused by the defense.” 559 U.S. at 556. This comports with the 42 U.S.C. § 1988’s basic purpose of encouraging attorneys to take on civil rights cases on a contingent basis. Id. (stating that “an enhancement may be appropriate where an attorney assumes these costs in the face of unanticipated delay”). The Court reasoned that defendants are less likely to settle when there is uncertainty regarding the amount of fees that will eventually be awarded by a judge with unlimited fee enhancement discretion. Id. at 558-59. Fee enhancements are also designed for circumstances where “the lodestar does not adequately take into a factor that may properly be considered in determining a reasonable fee.” 559 U.S. at 554.

Cabarets’ argument in the Appeal that Detroit’s municipal bankruptcy constitutes “delay” or “other circumstances” where the lodestar amount may permissibly be adjusted does not in any way ask for an order collaterally attacking any order of this Court.

By way of example, the currently grand total awarded by the District Court is approximately \$905,718.65. [Motion, p. 3]. As the City has pointed out [Id. at 7],

Cabarets each originally filed a claim in the amount of \$1,563,107.76. If, for example, the Sixth Circuit determines that the present circumstances merit a fee enhancement under Perdue, and the district court subsequently applied a fee enhancement of 50%, the resulting amount of approximately \$1,358,577.98 would still be less than the amount of claim filed by each of the Cabarets.

Certainly, Cabarets have requested a much greater enhancement, which would eclipse the claims originally submitted. However, whether the final amount of the award, the liquidated amount, is limited by the original claim is a subject to be addressed when it is actually presented to the Court.

The issue of whether a municipal bankruptcy, either here or under any circumstances, can support an upward departure from the lodestar figure in a 42 U.S.C. § 1988 request for fees and costs is an issue that should be resolved in the Appeal. The Appeal does not violate any of the injunctive provisions of the Plan cited by the City in its Motion. [Doc. 12852, p. 6]. It is simply part of the process to determine the precise liquidated value of the Cabarets' claims.

Because the subject matter of the Appeal is to determine the liquidated amount subject to the Plan of Adjustment and involves an important and unique question under 42 U.S.C. § 1988 jurisprudence, Cabarets should not be enjoined from maintaining the appeal.

II. THE CITY'S CLAIM FOR ATTORNEY FEES AND COSTS SHOULD BE DENIED.

The City has articulated no permissible basis for its request for attorney fees and costs. In addition, the City incurred the attorney fees it now seeks while failing to contend that the litigation in the district court was contrary to the Plan.

Generally “the ‘basic point of reference when considering the award of attorney’s fees is the bedrock principle known as the American Rule: Each litigant pays his own attorney’s fees, win or lose, unless a statute or contract provides otherwise.’” Baker Botts L.L.P. v. ASARCO LLC, — U.S. —, 135 S.Ct. 2158, 2164, 192 L.Ed.2d 208 (2015) (quoting Hardt v. Reliance Standard Life Ins. Co., 560 U.S. 242, 252–53, 130 S.Ct. 2149, 176 L.Ed.2d 998 (2010)). In re Formosa, 582 B.R. 423, 429 (Bankr. E.D. Mich. 2018) (quoting Baker Botts L.L.P. v. ASARCO LLC, — U.S. —, 135 S.Ct. 2158, 2164, 192 L.Ed.2d 208 (2015) (quoting Hardt v. Reliance Standard Life Ins. Co., 560 U.S. 242, 252–53, 130 S.Ct. 2149, 176 L.Ed.2d 998 (2010))). The City has identified no statute or Plan provision which provides for the attorney fees it seeks. Respectfully, awarding the City its attorney fees for the Appeal was an error of law that should be corrected upon reconsideration.

In addition, the district court resumed the underlying suit in May of 2016. The Cabarets submitted their second request for attorney fees on September 20 of 2016. [Ex. 6-1, Entry No. 174].

III. RECONSIDERATION SHOULD BE GRANTED

Rule 9024-1(a)(3) provides that:

Generally, and without restricting the discretion of the court, a motion for reconsideration that merely presents the same issues ruled upon by the court, either expressly or by reasonable implication, will not be granted. The movant must not only demonstrate a palpable defect by which the court and the parties have been misled but also show that a different disposition of the case must result from a correction thereof.

The present motion does not request litigation of any issues previously presented by the Court. Rather, the motion presents the issues in full to the Court for the first time. The Cabarets' response to the City's motion was not timely presented to the Court due to its counsels' inability to file the response electronically and unfamiliarity with the proper means of seeking leave to file the response in paper format, as explained above. Counsel prepared to timely file the brief and when electronic filing proved not to be possible, the City denied the Cabarets' request for an extension.

Under the present circumstances, the Cabarets respectfully request that the Court exercise its discretion and reconsider its Order. In addition, respectfully the Order suffers from the palpable defects identified in Sections II and III above, which were not previously presented to the Court.

CONCLUSION

WHEREFORE, for the forgoing reasons, the Cabarets respectfully request that this Honorable Court GRANT the present motion for reconsideration and, upon reconsideration, DENY in full the City's Motion.

Dated: August 16, 2018

Respectfully submitted,

/s/ Matthew J. Hoffer

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HDV Greektown, LLC;
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K&P, Incorporated

EXHIBIT 4

Certificate of Service

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re:
City of Detroit, Michigan,
Debtor.

Bankruptcy Case No. 13-53846
Judge Thomas J. Tucker
Chapter 9

CERTIFICATE OF SERVICE

I hereby certify that on this 16th Day of August, 2018, H.D.V. – Greektown, LLC, 415 East Congress, LLC, and K & P, Inc.’s Motion to Reconsider Order Granting the City of Detroit’s Motion for the Entry of an Order Enforcing the Plan and Adjustment Injunction Against H.D.V. Greektown, LLC, 415 East Congress, LLC, and K & P, Incorporated [12863] was filed with the United States Bankruptcy Court for the Eastern District of Michigan via the Court’s CM/ECF system, thereby causing service by operation of the CM/ECF system upon all counsels of record, including:

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Marc N. Swanson (P71149)
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s/ Matthew J. Hoffer
Matthew J. Hoffer (P70495)
Shafer & Associates, P.C.

EXHIBIT 5

Declaration of Matthew J. Hoffer, Esq.

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re:
City of Detroit, Michigan,
Debtor.

Bankruptcy Case No. 13-53846
Judge Thomas J. Tucker
Chapter 9

DECLARATION OF MATTHEW J. HOFFER, ESQ.

NOW COMES Matthew J. Hoffer, and pursuant to 28 U.S.C. § 1746, hereby declares and states the following.

1. I am an attorney licensed to practice law in the State of Michigan and admitted to practice before the United States District Court for the Eastern District of Michigan. I am an employee of Shafer & Associates, P.C. Bradley J. Shafer is an attorney licensed to practice in the State of Michigan and admitted to practice before the United States District Court for the Eastern District of Michigan. Mr. Shafer is the principle of Shafer & Associates, P.C.

2. I make this declaration upon personal knowledge, unless specifically stated to the contrary. I will refer to myself in the third person for the convenience of the reader.

3. Mr. Shafer and Mr. Hoffer are counsel for H.D.V. - Greektown, LLC, 415 East Congress, LLC, and K&P, Inc. (the “Cabarets”) in the above matter; in H.D.V. – Greektown, LLC et al v. City of Detroit, United States District Court for

the Eastern District of Michigan Case No. 2:06-cv-11282; and in H.D.V. – Greektown, LLC, et al. v. City of Detroit, United States Court of Appeals for the Sixth Circuit Case No. 18-1203.

4. Mr. Shafer and Mr. Hoffer each took pre-planned vacations during the week of January 2, 2018, Mr. Shafer from July 2 to July 8 and Mr. Hoffer from July 4 to July 8.

5. Mr. Shafer and Mr. Hoffer each attended and presented at the First Amendment Lawyers Association’s (“FALA”) semi-annual meeting from July 11 to July 14, 2018 in Denver, Colorado, and remained in Denver thereafter to meet with local clients. Mr. Shafer returned on July 16, 2017 and Mr. Hoffer returned on July 17, 2018.

6. Mr. Shafer then spent the week of July 23 in San Diego, California, traveling to, preparing for, attending, and traveling from mediation on a class action matter.

7. The City of Detroit’s Motion for the Entry of an Order Enforcing the Plan of Adjustment Injunction Against H.D.V. Greektown, LLC, 415 East Congress, LLC, and K&P, Incorporated [Doc. 12852] (the “Motion”), was filed on July 11, 2013 and received by Shafer & Associates on July 13, 2013. Mr. Hoffer calculated the due date to be July 30, 2018.

8. Upon returning from FALA, Mr. Hoffer's efforts were concentrated on completing an appellate opening brief in Ontario Food & Beverage, LLC, v. Baker (now Schoorl), United States Court of Appeals for the Ninth Circuit Case No. 18-55884, which was ultimately filed on July 31, 2018.

9. Nevertheless, also upon Mr. Hoffer's return from FALA, he tasked a law clerk with research regarding the Motion, including whether any special admission was required to practice before The United States Bankruptcy Court for the Eastern District of Michigan. The research confirmed that no special admission was required. Mr. Hoffer also verified that Shafer & Associate's records contained an ECF/CM login and password for Mr. Shafer for The United States Bankruptcy Court for the Eastern District of Michigan.

10. Mr. Hoffer prepared a response in opposition to the City's Motion for Mr. Shafer's review, and for filing. Upon Mr. Hoffer logging in to file the Motion on July 30, 2018, he learned that Mr. Shafer's login was not valid. Mr. Hoffer then contacted counsel for the City to request an extension to permit the e-filing issue to be corrected. The City of Detroit denied the requested extension.

11. Unable to electronically file a request for an extension, Mr. Hoffer changed the signature block to his own information, physically signed and overnighted the response to the Court via UPS overnight delivery.

12. The attempted physical filing of the response was rejected for filing by the Clerk of the Court for, *inter alia*, failure to contain an ex parte motion for leave to file in the traditional manner and returned to Shafer and Associates. Mr. Hoffer then prepared an ex parte application to file in the traditional fashion, which was resubmitted with the original response, as returned by the Clerk of the Court, which was overnighted to the Court Via UPS on August 7, 2018. That filing was rejected for failing to include a proposed order for the ex parte application.

13. On August 9, 2018, Shafer & Associates received a copy of the Court Order [Doc. 12863] granting the Motion. Mr. Hoffer, then determining under Rule 9024—(a)(1) that a motion for reconsideration was due within 14 days, began the process to obtain training and become a registered e-filer with the Court. The ECF registration process was ultimately complete on August 13, 2018, when Mr. Hoffer received his CM/ECF login and password.

14. Except possibly assisting with the filing of the proofs of claim in the above matter, the Cabaret's response to the City's motion was Mr. Hoffer's first attempt at electronically filing with the Court. The first attempt occurred under pressure of numerous ongoing obligations and while 'catching up' on matters arising while he had been out of the office for two weeks.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed on: August 16, 2018

/s/ Matthew J. Hoffer

Matthew J. Hoffer, Esq.

Shafer & Associates, P.C.

EXHIBIT 6-1

Docket Report in H.D.V. Greektown, LLC v. City of Detroit,
2:06-cv-11282-AJT-RSW

**U.S. District Court
Eastern District of Michigan (Detroit)
CIVIL DOCKET FOR CASE #: 2:06-cv-11282-AJT-RSW**

H.D.V. - Greektown, L. L. C. et al v. Detroit, City of

Assigned to: District Judge Arthur J. Tarnow

Referred to: Magistrate Judge R. Steven Whalen

Case in other court: U.S. Court of Appeals - Sixth Circuit, 08-01329/08-01361

U.S. Court of Appeals - Sixth Circuit, 15-01449

U.S. Court of Appeals - Sixth Circuit, 15-01449

Cause: No cause code entered

Plaintiff

H.D.V. - Greektown, L. L. C.

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Plaintiff

415 East Congress, L. L. C.

represented by **Andrea E. Pritzlaff**
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Bradley J. Shafer
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Corbett E. O'Meara
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Matthew J. Hoffer
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ATTORNEY TO BE NOTICED

Plaintiff

K and P, Incorporated

Doing business as
Deja Vu
Doing business as
Zoo Bar

represented by **Andrea E. Pritzlaff**
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LEAD ATTORNEY
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Corbett E. O'Meara
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Matthew J. Hoffer
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ATTORNEY TO BE NOTICED

Plaintiff

Jane Roe I

TERMINATED: 08/23/2011

represented by **Bradley J. Shafer**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Jane Roe II
TERMINATED: 08/23/2011

represented by **Bradley J. Shafer**
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ATTORNEY TO BE NOTICED

Plaintiff

Jane Roe III
TERMINATED: 08/23/2011

represented by **Bradley J. Shafer**
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ATTORNEY TO BE NOTICED

Plaintiff

Jane Roe IV
TERMINATED: 08/23/2011

represented by **Bradley J. Shafer**
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ATTORNEY TO BE NOTICED

V.

Defendant

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Defendant

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 586-285-1149
 ATTORNEY TO BE NOTICED

| Date Filed | # | Docket Text |
|------------|--------------------|---|
| 03/28/2006 | 1 | COMPLAINT with exhibits A-L filed by all plaintiffs against Detroit, City of, Receipt No: 540416 - Fee: \$ 250. (Attachments: # 1 Document Continuation # 2 Document Continuation # 3 Document Continuation # 4 Document Continuation # 5 Document Continuation # 6 Document Continuation # 7 Document Continuation)(DHame,) (Entered: 03/29/2006) |
| 03/28/2006 | 2 | STATEMENT of DISCLOSURE of CORPORATE AFFILIATIONS and FINANCIAL INTEREST by H.D.V. - Greektown, L. L. C..(DHame,) (Entered: 03/29/2006) |
| 03/28/2006 | 3 | STATEMENT of DISCLOSURE of CORPORATE AFFILIATIONS and FINANCIAL INTEREST by 415 East Congress, L. L. C..(DHame,) (Entered: 03/29/2006) |
| 03/28/2006 | 4 | STATEMENT of DISCLOSURE of CORPORATE AFFILIATIONS and FINANCIAL INTEREST by K and P, Incorporated.(DHame,) (Entered: 03/29/2006) |
| 03/29/2006 | 5 | SUMMONS Returned Executed. Detroit, City of served on 3/28/2006, answer due 4/17/2006 (Shafer, Bradley) (Entered: 03/29/2006) |
| 04/13/2006 | 6 | ATTORNEY APPEARANCE: James D. Noseda appearing on behalf of Detroit, City of. (Noseda, James) (Entered: 04/13/2006) |
| 04/13/2006 | 7 | STIPULATION to Extend Time For Defendant To Answer or Otherwise Plead by Detroit, City of.(Noseda, James) (Entered: 04/13/2006) |
| 04/24/2006 | 8 | ORDER GRANTING re 7 Stipulation filed by Detroit, City of, Extending Time for Defendant to Answer or Otherwise Plead to Complaint. Signed by Honorable Denise Page Hood. (BLew,) (Entered: 04/24/2006) |
| 04/26/2006 | 9 | NOTICE of Appearance by Eric B. Gaabo on behalf of Detroit, City of. (Gaabo, Eric) (Entered: 04/26/2006) |
| 05/02/2006 | 10 | ORDER REASSIGNING CASE from Judge Denise Page Hood and Magistrate Judge Mona K Majzoub to Judge Julian Abele Cook and Magistrate Judge Virginia M Morgan. (ATee,) (Entered: 05/02/2006) |
| 05/15/2006 | 11 | ANSWER to Complaint with Affirmative Defenses by all defendants.(Gaabo, Eric) (Entered: 05/15/2006) |
| 07/07/2006 | 12 | NOTICE TO APPEAR: Scheduling Conference set for 8/14/2006 02:30 PM before Honorable Julian Abele Cook. (KDoa,) (Entered: 07/07/2006) |
| 08/07/2006 | 13 | DISCOVERY plan jointly filed pursuant to Federal Rules of Civil Procedure 26(f). (Shafer, Bradley) (Entered: 08/07/2006) |
| 08/28/2006 | | Minute Entry -Scheduling Conference held on 8/28/2006 before Honorable Julian Abele Cook. (KDoa,) (Entered: 09/18/2006) |
| 09/18/2006 | 14 | STIPULATION AND ORDER - Plaintiffs motion for partial summary judgment due November 3, 2006 Signed by Honorable Julian Abele Cook. (KDoa,) (Entered: 09/18/2006) |
| 11/15/2006 | 15 | STIPULATION AND ORDER FOR EXTENSION OF TIME UNTIL NOVEMBER 30, 2006 for plaintiffs to file their zoning motion for partial summary judgment Signed by Doc 12873 Filed 08/16/18 Entered 08/16/18 17:37:39 Page 31 of 64 |

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| | | Honorable Julian Abele Cook. (KDoa,) (Entered: 11/15/2006) |
| 11/29/2006 | 16 | Ex Parte MOTION for Leave to File Excess Pages by all plaintiffs. (Shafer, Bradley) (Entered: 11/29/2006) |
| 11/29/2006 | 17 | [STRICKEN PER ORDER ON 01/23/07][FILING ERROR - INDEX OF EXHIBITS NOT SEPERATE FROM MAIN DOCUMENT] MOTION for Partial Summary Judgment <i>and Brief in Support of Motion for Partial Summary Judgment</i> by all plaintiffs. (Attachments: # 1 Exhibit Exhibit L - Part 4 of 4 - Excerpts of the Detroit Zoning Ordinance (May 29, 2005)# 2 Exhibit Exhibit L - Part 3 of 4 - Excerpts of the Detroit Zoning Ordinance (May 29, 2005)# 3 Exhibit Exhibit L - Part 2 of 4 - Excerpts of the Detroit Zoning Ordinance (May 29, 2005)# 4 Exhibit Exhibit L - Part 1 of 4 - Excerpts of the Detroit Zoning Ordinance (May 29, 2005)# 5 Exhibit Exhibit K - April 8, 2004, Zoning Violation Notice# 6 Exhibit Exhibit J - Feb. 6, 2004, Zoning Violation Notice# 7 Exhibit Exhibit I - Oct. 25, 2006, City Planning Commission Letter# 8 Exhibit Exhibit H - Resolutions# 9 Exhibit Exhibit G - Order# 10 Exhibit Exhibit F - Stipulation# 11 Exhibit Exhibit E - Liquor License Unit Referral# 12 Exhibit Exhibit D - Section 51.000 of the Previous Detroit Zoning Ordinance# 13 Exhibit Exhibit C - July 3, 2003, City Planning Commission Letter# 14 Exhibit Exhibit B - Oct. 14, 1999, City Planning Commission Letter# 15 Exhibit Exhibit A - April 20, 1994 Zoning Grant)(Shafer, Bradley) Modified on 11/30/2006 (KGeha,). Modified on 1/23/2007 (DPer,). (Entered: 11/29/2006) |
| 12/01/2006 | 18 | INDEX of Exhibits re 17 MOTION for Partial Summary Judgment <i>and Brief in Support of Motion for Partial Summary Judgment</i> by all plaintiffs.(Shafer, Bradley) (Entered: 12/01/2006) |
| 12/20/2006 | 19 | MOTION for Extension of Time to File Response/Reply as to 17 MOTION for Partial Summary Judgment <i>and Brief in Support of Motion for Partial Summary Judgment , plus Memorandum of Law in Support and Certificate of Service</i> by Detroit, City of. (Gaabo, Eric) (Entered: 12/20/2006) |
| 01/22/2007 | 20 | ORDER granting 16 Motion for Leave to File Excess Pages, granting 19 Motion for Extension of Time to File Response/Reply re 16 Ex Parte MOTION for Leave to File Excess Pages, 19 MOTION for Extension of Time to File Response/Reply as to 17 MOTION for Partial Summary Judgment <i>and Brief in Support of Motion for Partial Summary Judgment , plus Memorandum of Law in Support and Certificate of Service</i> -Signed by Honorable Julian Abele Cook. (See image for important dates) (KDoa,) (Entered: 01/22/2007) |
| 01/22/2007 | 21 | NOTICE of hearing on 17 MOTION for Partial Summary Judgment <i>and Brief in Support of Motion for Partial Summary Judgment</i> . Motion Hearing set for 3/13/2007 02:00 PM before Honorable Julian Abele Cook. (KDoa,) (Entered: 01/22/2007) |
| 01/23/2007 | 22 | AMENDED ORDER striking 17 Motion for partial summary judgment. Signed by Honorable Julian Abele Cook. (DPer,) (Entered: 01/23/2007) |
| 01/30/2007 | 23 | MOTION for Summary Judgment (<i>Partial Summary Judgment</i>) by all plaintiffs. (Attachments: # 1 Index of Exhibits # 2 Exhibit April 20, 1994 Zoning Grant# 3 Exhibit Oct. 14, 1999, City Planning Commission Letter# 4 Exhibit July 3, 2003, City Planning Commission Letter# 5 Exhibit Section 51.000 of the Previous Detroit Zoning Ordinance# 6 Exhibit Liquor License Unit Referral# 7 Exhibit Stipulation# 8 Exhibit Order# 9 Exhibit Resolutions# 10 Exhibit Oct. 25, 2006, City Planning Commission Letter# 11 Exhibit Feb. 6, 2004, Zoning Violation Notice# 12 Exhibit April 8, 2004, Zoning Violation Notice# 13 Exhibit Part 1 of 4 Detroit Zoning Ordinance (May 29, 2005) - Excerpts -# 14 Exhibit Part 2 of 4 Detroit Zoning Ordinance (May 29, 2005) - Excerpts -# 15 Exhibit Part 3 of 4 Detroit Zoning Ordinance (May 29, 2005) - Excerpts -# 16 |

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| | | Exhibit Part 4 of 4 Detroit Zoning Ordinance (May 29, 2005) - Excerpts -(Shafer, Bradley) (Entered: 01/30/2007) |
| 02/02/2007 | 24 | NOTICE of hearing on 23 MOTION for Summary Judgment (<i>Partial Summary Judgment</i>). Motion Hearing set for 3/13/2007 02:00 PM before Honorable Julian Abele Cook. (KDoa,) (Entered: 02/02/2007) |
| 02/20/2007 | 25 | RESPONSE to 23 MOTION for Summary Judgment (<i>Partial Summary Judgment</i>) MOTION for Summary Judgment (<i>Partial Summary Judgment</i>) MOTION for Summary Judgment (<i>Partial Summary Judgment</i>) plus <i>Brief in Opposition to Motion for Partial Summary Judgment</i> filed by Detroit, City of. (Attachments: # 1 Index of Exhibits # 2 Exhibit A - September 29, 2006 letter from City of Detroit Law Department to Detroit City Council requesting action on transfer request# 3 Exhibit B - Minutes to November 15, 2006 City Council session) (Gaabo, Eric) (Entered: 02/20/2007) |
| 02/22/2007 | 26 | Ex Parte MOTION for Leave to File Excess Pages for <i>Reply Brief</i> by all plaintiffs. (Shafer, Bradley) (Entered: 02/22/2007) |
| 02/26/2007 | 27 | ORDER granting 26 Motion for Leave to File Excess Pages. Signed by Honorable Julian Abele Cook. (KDoa) (Entered: 02/26/2007) |
| 02/27/2007 | 28 | [FILING ERROR: VIOLATION OF RULE 18, EXHIBIT LABELING] REPLY to Response re 23 MOTION for Summary Judgment (<i>Partial Summary Judgment</i>) MOTION for Summary Judgment (<i>Partial Summary Judgment</i>) MOTION for Summary Judgment (<i>Partial Summary Judgment</i>) filed by all plaintiffs. (Attachments: # 1 Index of Exhibits # 2 Exhibit 1# 3 Exhibit 2# 4 Exhibit 3) (Shafer, Bradley) Modified on 2/27/2007 (Hollier, N.). (Entered: 02/27/2007) |
| 03/13/2007 | | Minute Entry -Motion Hearing held on 3/13/2007 re 23 MOTION for Summary Judgment filed by 415 East Congress, L. L. C., K and P, Incorporated, H.D.V. - Greektown, L. L. C. before Honorable Julian Abele Cook. (Court Reporter JODI MATHEWS) (KDoa) (Entered: 03/20/2007) |
| 04/18/2007 | 29 | Second MOTION for Partial Summary Judgment by all plaintiffs. (Attachments: # 1 Index of Exhibits # 2 Exhibit A - Initial Sign Application# 3 Exhibit B - May 2004 Sign Ordinance Violation Notice# 4 Exhibit C - June 2004 Application for Temp Sign# 5 Exhibit D - June 1, 2004 Sign Permit# 6 Exhibit E - April 2004 Zoning Code Violation Notice# 7 Exhibit F - Excerpts of July 2004 BZA Hearing# 8 Exhibit G - Revised Sign Application# 9 Exhibit H - Chapter 3 of the Detroit City Code# 10 Exhibit I - Article VI of the Detroit Zoning Ordinance# 11 Exhibit J - Sec. 61-16-173 of the Detroit Zoning Ordinance# 12 Exhibit K - Article IV, Div. 5 of the Detroit Zoning Ordinance# 13 Exhibit L - Article II, Div. 5 of the Detroit Zoning Ordinance# 14 Exhibit M - Sec. 1-1-10 of the Detroit City Code# 15 Exhibit N - Sec. 61-1-15 of the Detroit Zoning Ordinance) (Shafer, Bradley) (Entered: 04/18/2007) |
| 05/09/2007 | 30 | RESPONSE to 29 Second MOTION for Partial Summary Judgment and <i>Brief in Opposition to Motion</i> filed by Detroit, City of. (Gaabo, Eric) (Entered: 05/09/2007) |
| 05/10/2007 | 31 | RESPONSE to 29 Second MOTION for Partial Summary Judgment [<i>AMENDED Answer and Brief in Opposition</i>] filed by Detroit, City of. (Attachments: # 1 Index of Exhibits # 2 Exhibit A-Prime Media Inc. v City of Brentwood, 2005 U.S. Dist. LEXIS 40203# 3 Exhibit B-Advantage Advertising, LLC v City of Pelham, 2004 U.S. Dist. LEXIS 28645# 4 Exhibit C - Trinity Outdoor, LLC v City of Woodstock, 2004 U.S. Dist. LEXIS 30088# 5 Exhibit D - Douglas Outdoor Advertising of Ga, Inc. v Cherokee County, 2004 U.S. Dist. LEXIS 14113# 6 Exhibit E - City Zoning Ordinance, sections 61-1-4 and 61-1-5# 7 |

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| | | Exhibit F - Advantage Advertising, LLC v City of Hoover, 200 Fed Appx. 831 (11th Cir. 2006) # 8 Exhibit G - RSWW, Inc. v City of Keego Harbor, U.S. Dist. LEXIS 24901 # 9 Exhibit H - Rrime Media, Inc. v City of Brentwood, 2007 U.S. App. LEXIS 10862 (6th Cir 2007)) (Gaabo, Eric) (Entered: 05/10/2007) |
| 05/11/2007 | 32 | Ex Parte MOTION for Leave to File Excess Pages <i>For Reply Brief</i> by all plaintiffs. (Shafer, Bradley) (Entered: 05/11/2007) |
| 05/15/2007 | 33 | APPLICATION FOR LEAVE OF COURT TO FILE AMENDED ANSWER TO AND AMENDED BRIEF IN OPPOSITION TO PLAINTIFFS' SECOND MOTION FOR SUMMARY JUDGMENT AND TO FILE SUPPLEMENTAL EXHIBITS, plus BRIEF IN SUPPORT , by Detroit, City of. (Attachments: # 1 Index of Exhibits # 2 Exhibit A - May 10, 2007 letter from Atty Shafer to Atty Gaabo re City's Answer to and Brief in Opp to Ps' Second Motion for Summary Judgment# 3 Exhibit B - May 10, 2007 e-mail from Atty Gaabo to Atty Shafer re filing of amended answer and brief with exhibits, and missing exhibits# 4 Exhibit C - letter from MLS Signs, Inc. to City of Detroit Buildings and Safety Engineering Department stating: "Feel free to void out our permits for the sign work at Hustlers @415 E. Congress. Since the ownership has decided to go into another direction.") (Gaabo, Eric) (Entered: 05/15/2007) |
| 05/16/2007 | 34 | RESPONSE to 32 Ex Parte MOTION for Leave to File Excess Pages <i>For Reply Brief and Brief in Opposition</i> filed by Detroit, City of. (Gaabo, Eric) (Entered: 05/16/2007) |
| 05/17/2007 | 35 | REPLY to Response re 32 Ex Parte MOTION for Leave to File Excess Pages <i>For Reply Brief and Subsumed Ex Parte Motion to Further Extend Page Limitation</i> filed by all plaintiffs. (Shafer, Bradley) (Entered: 05/17/2007) |
| 05/17/2007 | 36 | Ex Parte MOTION for Extension of Time to File Response/Reply to Defendant's Answer to Plaintiffs' Second Motion for Partial Summary Judgment by all plaintiffs. (Shafer, Bradley) (Entered: 05/17/2007) |
| 05/18/2007 | 37 | RESPONSE to 36 Ex Parte MOTION for Extension of Time to File Response/Reply to Defendant's Answer to Plaintiffs' Second Motion for Partial Summary Judgment [Answer to and Brief in Opposition to Plaintiffs' "Subsumed Ex Parte Application to Further Extend Page Limitation" and Ex Parte Application for Extension of Time] filed by Detroit, City of. (Gaabo, Eric) (Entered: 05/18/2007) |
| 05/21/2007 | 38 | REPLY to Response re 36 Ex Parte MOTION for Extension of Time to File Response/Reply to Defendant's Answer to Plaintiffs' Second Motion for Partial Summary Judgment and re 35 Subsumed Ex Parte Motion to Further Extend Page Limitation filed by all plaintiffs. (Shafer, Bradley) (Entered: 05/21/2007) |
| 06/13/2007 | 39 | ORDER granting 32 Motion for Leave to File Excess Pages; granting 36 Motion for Extension of Time to File Response/Reply re 32 Ex Parte MOTION for Leave to File Excess Pages <i>For Reply Brief</i> , 36 Ex Parte MOTION for Extension of Time to File Response/Reply to Defendant's Answer to Plaintiffs' Second Motion for Partial Summary Judgment and granting Application by Defendant to file an amended response.. Signed by Honorable Julian Abele Cook. (KDoa) (Entered: 06/13/2007) |
| 06/14/2007 | 40 | REPLY to Response re 29 Second MOTION for Partial Summary Judgment filed by all plaintiffs. (Attachments: # 1 Index of Exhibits # 2 Exhibit 1 - Affidavit of Steven Johnson# 3 Exhibit 2 - Affidavit of Mark Zoltowski# 4 Exhibit 3 - Covenant Media of Illinois, LLC v. City of Des Plaines) (Shafer, Bradley) (Entered: 06/14/2007) |
| 06/28/2007 | 41 | SUR-REPLY re 29 Second MOTION for Partial Summary Judgment filed by Detroit, City of. (Gaabo, Eric) (Entered: 06/28/2007) |
| 07/10/2007 13-53846-tjt | 42 | (FILING ERROR - INDEX LIST DOES NOT MATCH EXHIBITS) MOTION to Doc 12873 Filed 08/16/18 Entered 08/16/18 17:37:39 Page 34 of 64 EXHIBIT 6-1 |

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| | | Intervene by Majed Dabish. (Attachments: # 1 Index of Exhibits # 2 Exhibit Proposed Complaint# 3 Exhibit B & SE Decision) (Tatone, Vincent) Modified on 7/11/2007 (Paul, P.). (Entered: 07/10/2007) |
| 07/10/2007 | 43 | EXHIBIT C <i>Detroit Zoning Board Decision</i> re 42 MOTION to Intervene by Majed Dabish (Tatone, Vincent) (Entered: 07/10/2007) |
| 07/24/2007 | 44 | RESPONSE to 42 MOTION to Intervene of <i>Mike Dabish</i> filed by Detroit, City of. (Attachments: # 1 Index of Exhibits # 2 Exhibit A - January 30, 2006 letter from Greenacres Woodward Civic Association to Det Buildings & Safety Engineering Dept# 3 Exhibit B - January 31, 2007 letter from Nortown Community Development Corporation to Det Buildings & Safety Eng Dept.# 4 Exhibit C - March 5, 2007 Recommendation of Det Planning & Development Dept.# 5 Exhibit D - May 7, 2007 letter from Van Dyke - Seven Mile Road Business Association to Det Board of Zoning Appeals) (Gaabo, Eric) (Entered: 07/24/2007) |
| 07/24/2007 | 45 | NOTICE by K and P, Incorporated, H.D.V. - Greektown, L. L. C., 415 East Congress, L. L. C. re 23 MOTION for Summary Judgment (<i>Partial Summary Judgment</i>) MOTION for Summary Judgment (<i>Partial Summary Judgment</i>) MOTION for Summary Judgment (<i>Partial Summary Judgment</i>) MOTION for Summary Judgment (<i>Partial Summary Judgment</i>) Notice of Filing in Support of Plaintiffs' [first] Mtn for Partial Summary Judgment (Attachments: # 1 Index of Exhibits # 2 Exhibit 1 - Mike Dabish's Motion to Intervene with Exhibits# 3 Exhibit 2 - City's Answer to Motion to Intervene with Exhibits) (Shafer, Bradley) (Entered: 07/24/2007) |
| 07/27/2007 | 46 | MOTION for Leave to File <i>First Amended Complaint</i> by all plaintiffs. (Shafer, Bradley) (Entered: 07/27/2007) |
| 07/27/2007 | 47 | MOTION To Proceed Anonymously and to File Complaint Verifications and Affidavits Under Seal by all plaintiffs. (Shafer, Bradley) (Entered: 07/27/2007) |
| 08/06/2007 | 48 | ORDER granting in part and denying in part 23 Motion for Summary Judgment; granting in part and denying in part 29 Motion for Partial Summary Judgment. Signed by Honorable Julian Abele Cook. (KDoa) (Entered: 08/06/2007) |
| 08/10/2007 | 49 | RESPONSE to 46 MOTION for Leave to File <i>First Amended Complaint</i> filed by Detroit, City of. (Attachments: # 1 Index of Exhibits # 2 Exhibit A - May 10, 2007 letter to Bradley Shafer declining to stipulate amended complaint adding parties and converting case to class action) (Gaabo, Eric) (Entered: 08/10/2007) |
| 08/10/2007 | 50 | RESPONSE to 47 MOTION To Proceed Anonymously and to File Complaint Verifications and Affidavits Under Seal filed by Detroit, City of. (Attachments: # 1 Exhibit # 2 Exhibit A - May 10, 2007letter to Bradley Shafer declining to stipulate to amended complaint adding parties and converting case to class action) (Gaabo, Eric) (Entered: 08/10/2007) |
| 08/17/2007 | 51 | MOTION to Amend/Correct 48 Order on Motion for Summary Judgment, Order on Motion for Partial Summary Judgment by all plaintiffs. (Attachments: # 1 Index of Exhibits # 2 Exhibit A - Order - 2007-08-06# 3 Exhibit B - Excerpts of Transcript of BZA Hearing# 4 Exhibit C - Detroit Ordinance Nos. 10-05 and 11-05) (Shafer, Bradley) (Entered: 08/17/2007) |
| 08/21/2007 | 52 | REPLY to Response re 46 MOTION for Leave to File <i>First Amended Complaint</i> filed by all plaintiffs. (Shafer, Bradley) (Entered: 08/21/2007) |
| 08/21/2007 | 53 | REPLY to Response re 47 MOTION To Proceed Anonymously and to File Complaint Verifications and Affidavits Under Seal filed by all plaintiffs. (Shafer, Bradley) (Entered: 08/21/2007) |

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| 08/24/2007 | 54 | MOTION for Leave to File <i>Response to Plaintiffs' Motion to Alter or Amend August 6, 2007 Order + Memorandum of Law in Support</i> by Detroit, City of. (Gaabo, Eric) (Entered: 08/24/2007) |
| 09/07/2007 | 55 | ORDER granting 54 Motion for Leave to File. Signed by Honorable Julian Abele Cook. (KDoa) (Entered: 09/07/2007) |
| 09/12/2007 | 56 | MOTION for Leave to File <i>Reply to Defendant's Response to Plaintiffs' Motion to Alter or Amend</i> by all plaintiffs. (Shafer, Bradley) (Entered: 09/12/2007) |
| 09/18/2007 | 57 | RESPONSE to 51 MOTION to Amend/Correct 48 Order on Motion for Summary Judgment, Order on Motion for Partial Summary Judgment MOTION to Amend/Correct 48 Order on Motion for Summary Judgment, Order on Motion for Partial Summary Judgment filed by Detroit, City of. (Attachments: # 1 Index of Exhibits # 2 Exhibit A - Appendix A to City of Detroit's Zoning Ordinance, entitled "Assignment of Specific Use Types to General Use Categories") (Gaabo, Eric) (Entered: 09/18/2007) |
| 10/16/2007 | 58 | ORDER granting 56 Motion for Leave to File. Signed by Honorable Julian Abele Cook. (KDoa) (Entered: 10/16/2007) |
| 10/23/2007 | 59 | REPLY to Response re 51 MOTION to Amend/Correct 48 Order on Motion for Summary Judgment, Order on Motion for Partial Summary Judgment MOTION to Amend/Correct 48 Order on Motion for Summary Judgment, Order on Motion for Partial Summary Judgment filed by all plaintiffs. (Attachments: # 1 Index of Exhibits # 2 Exhibit A - Detroit Ordinance No. 10-05) (Shafer, Bradley) (Entered: 10/23/2007) |
| 12/02/2007 | 60 | ORDER denying 42 Motion to Intervene. Signed by Honorable Julian Abele Cook. (KDoa) (Entered: 12/02/2007) |
| 01/01/2008 | 61 | NOTICE of hearing on 47 MOTION To Proceed Anonymously and to File Complaint Verifications and Affidavits Under Seal, 51 MOTION to Amend/Correct 48 Order on Motion for Summary Judgment, Order on Motion for Partial Summary Judgment MOTION to Amend/Correct 48 Order on Motion for Summary Judgment, Order on Motion for Partial Summary Judgment, 46 MOTION for Leave to File <i>First Amended Complaint</i> . Motion Hearing set for 1/23/2008 03:00 PM before Honorable Julian Abele Cook. (KDoa) (Entered: 01/01/2008) |
| 01/08/2008 | 62 | NOTICE of hearing on 29 Second MOTION for Partial Summary Judgment. Motion Hearing set for 1/23/2008 03:00 PM before Honorable Julian Abele Cook. (KDoa) (Entered: 01/08/2008) |
| 01/08/2008 | 63 | NOTICE of hearing on 29 Second MOTION for Partial Summary Judgment. Motion Hearing set for 1/23/2008 03:00 PM before Honorable Julian Abele Cook. (KDoa) (Entered: 01/08/2008) |
| 01/08/2008 | 64 | NOTICE of hearing on 29 Second MOTION for Partial Summary Judgment. Motion Hearing set for 1/23/2008 03:00 PM before Honorable Julian Abele Cook. (KDoa) (Entered: 01/08/2008) |
| 01/16/2008 | 65 | NOTICE of ADJOURNED hearing currently scheduled for January 23, 2007 on 47 MOTION To Proceed Anonymously and to File Complaint Verifications and Affidavits Under Seal, 51 MOTION to Amend/Correct 48 Order on Motion for Summary Judgment, Order on Motion for Partial Summary Judgment MOTION to Amend/Correct 48 Order on Motion for Summary Judgment, Order on Motion for Partial Summary Judgment, 46 MOTION for Leave to File <i>First Amended Complaint</i> , 29 Second MOTION for Partial Summary Judgment. ADJOURNED MOTION HEARING SET FOR 1/29/2008 09:00 AM before Honorable Julian Abele Cook. (KDoa) (Entered: 01/16/2008) |
| 01/29/2008 | 66 | EXHIBIT I July 26, 2007 letter from Detroit Buildings and Safety Engineering. Doc 12873 Filed 08/16/18 Entered 08/16/18 17:37:39 Page 3 of 64 EXHIBIT 6-1 |

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| | | <i>Department requesting additional documentation relating to sign application) re</i> 31 Response to Motion,,, by Detroit, City of (Gaabo, Eric) (Entered: 01/29/2008) |
| 01/29/2008 | | Minute Entry -Motion Hearing held on 1/29/2008 re 47 MOTION To Proceed Anonymously and to File Complaint Verifications and Affidavits Under Seal filed by 415 East Congress, L. L. C., K and P, Incorporated, H.D.V. - Greektown, L. L. C., 51 MOTION to Amend/Correct 48 Order on Motion for Summary Judgment, Order on Motion for Partial Summary Judgment MOTION to Amend/Correct 48 Order on Motion for Summary Judgment, Order on Motion for Partial Summary Judgment filed by 415 East Congress, L. L. C., K and P, Incorporated, H.D.V. - Greektown, L. L. C., 46 MOTION for Leave to File <i>First Amended Complaint</i> filed by 415 East Congress, L. L. C., K and P, Incorporated, H.D.V. - Greektown, L. L. C., 29 Second MOTION for Partial Summary Judgment filed by 415 East Congress, L. L. C., K and P, Incorporated, H.D.V. - Greektown, L. L. C. before Honorable Julian Abele Cook. (Court Reporter JOAN MORGAN) (KDoa) (Entered: 02/14/2008) |
| 01/31/2008 | 67 | MOTION for Leave to File <i>Supplemental Brief in Support of Plaintiffs' Second Motion for Partial Summary Judgment</i> by all plaintiffs. (Attachments: # 1 Exhibit A - Proposed Supplemental Brief# 2 Index of Exhibits To Proposed Supplemental Brief# 3 Exhibit A to Supplemental Brief - Letter# 4 Exhibit B to Supplemental Brief - Application) (Shafer, Bradley) (Entered: 01/31/2008) |
| 02/06/2008 | 68 | RESPONSE to 67 MOTION for Leave to File <i>Supplemental Brief in Support of Plaintiffs' Second Motion for Partial Summary Judgment</i> filed by Detroit, City of. (Gaabo, Eric) (Entered: 02/06/2008) |
| 02/07/2008 | 69 | ORDER granting 46 Motion for Leave to File; granting 47 Motion ; denying 51 Motion to Amend/Correct. Signed by Honorable Julian Abele Cook. (KDoa) (Entered: 02/07/2008) |
| 02/14/2008 | 70 | ORDER granting in part and denying in part 29 Motion for Partial Summary Judgment. Signed by Honorable Julian Abele Cook. (KDoa) (Entered: 02/14/2008) |
| 03/06/2008 | 71 | NOTICE OF APPEAL by K and P, Incorporated, H.D.V. - Greektown, L. L. C., 415 East Congress, L. L. C.. Receipt No: 0645000000001447217 - Fee: \$ 455 - Fee Status: Fee Paid. (Shafer, Bradley) (Entered: 03/06/2008) |
| 03/06/2008 | 72 | NOTICE OF APPEAL by K and P, Incorporated, H.D.V. - Greektown, L. L. C., 415 East Congress, L. L. C.. Receipt No: 0645000000001447254 - Fee: \$ 455 - Fee Status: Fee Paid. (Shafer, Bradley) (Entered: 03/06/2008) |
| 03/06/2008 | 73 | Certificate of Service re 72 Notice of Appeal, 71 Notice of Appeal. (LHac) (Entered: 03/06/2008) |
| 03/26/2008 | 74 | TRANSCRIPT of Civil held on March 13, 2007, Motion for Partial Summary Judgment. (Court Reporter: Nefertiti Matthews) (Number of Pages: 45) (Matthews, N) (Entered: 03/26/2008) |
| 04/08/2008 | 75 | AMENDED COMPLAINT filed by Jane Roe I, Jane Roe II, Jane Roe III, Jane Roe IV, K and P, Incorporated, H.D.V. - Greektown, L. L. C., 415 East Congress, L. L. C. against Detroit, City of. (Attachments: # 1 Document Continuation Part 2 of 3 of Amended Complaint, # 2 Document Continuation Part 3 of 3 of Amended Complaint, # 3 Index of Exhibits, # 4 Exhibit A - Stipulation, # 5 Exhibit B - Order, # 6 Exhibit C - Detroit City Code Provisions, # 7 Exhibit D - Detroit Zoning Ordinance Provisions, # 8 Document Continuation Exhibit D - Part 2 of 2, # 9 Exhibit E - Detroit City Code Provisions, # 10 Exhibit F - Detroit Zoning Ordinance Provisions, # 11 Exhibit G - Relevant Michigan Statutes, # 12 Exhibit H - Detroit City Code Provisions, # 13 Exhibit I - Detroit Zoning Ordinance Provisions - Part 1 of 2, # 14 Document Continuation Exhibit I - Part 2 of 2, # Doc 12873 Filed 08/16/18 Entered 08/16/18 17:37:39 Page 37 of 64 EXHIBIT 6-1 |

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| | | 15 Exhibit J - Detroit Zoning Ordinance Provisions, # 16 Exhibit K - Resolutions and Enacted Procedures, # 17 Exhibit L - Land Use Grant) (Shafer, Bradley) (Entered: 04/08/2008) |
| 04/10/2008 | 76 | CERTIFICATE OF SERVICE by K and P, Incorporated, Jane Roe I, Jane Roe II, Jane Roe III, Jane Roe IV, H.D.V. - Greektown, L. L. C., 415 East Congress, L. L. C. <i>of the Verifications Filed Under Seal of Jane Roe I, Jane Roe II, Jane Roe III, and Jane Roe IV</i> (Shafer, Bradley) (Entered: 04/10/2008) |
| 05/06/2008 | 77 | ANSWER to Amended Complaint with Affirmative Defenses by Detroit, City of. (Gaabo, Eric) (Entered: 05/06/2008) |
| 05/06/2008 | 78 | ORDER finding as moot 67 Motion for Leave to File. Signed by District Judge Julian Abele Cook. (KDoa) (Entered: 05/06/2008) |
| 05/07/2008 | 79 | TRANSCRIPT of Motions held on January 29, 2008. (Court Reporter: Joan L. Morgan) (Number of Pages: 46) (Morgan, J) (Entered: 05/07/2008) |
| 01/29/2009 | 80 | NOTICE TO APPEAR: Status Conference set for 2/5/2009 03:00 PM before District Judge Julian Abele Cook (KDoa) (Entered: 01/29/2009) |
| 02/05/2009 | | Minute Entry -Status Conference held on 2/5/2009 before District Judge Julian Abele Cook. (KDoa) (Entered: 02/05/2009) |
| 02/26/2009 | 81 | MOTION for Leave to File <i>Second Amended Complaint</i> by K and P, Incorporated, Jane Roe I, Jane Roe II, Jane Roe III, Jane Roe IV, H.D.V. - Greektown, L. L. C., 415 East Congress, L. L. C.. (Attachments: # 1 Exhibit 1 - Part 1 of 3 - Proposed Amended Complaint, # 2 Exhibit 1 - Part 2 of 3 - Proposed Amended Complaint, # 3 Exhibit 1 - Part 3 of 3 - Proposed Amended Complaint) (Shafer, Bradley) (Entered: 02/26/2009) |
| 03/12/2009 | 82 | RESPONSE to 81 MOTION for Leave to File <i>Second Amended Complaint</i> filed by Detroit, City of. (Gaabo, Eric) (Entered: 03/12/2009) |
| 04/29/2009 | 83 | ORDER granting 81 Motion for Leave to File. Signed by District Judge Julian Abele Cook. (KDoa) (Entered: 04/29/2009) |
| 05/11/2009 | 84 | AMENDED COMPLAINT (<i>Second</i>) filed by K and P, Incorporated, Jane Roe I, Jane Roe II, Jane Roe III, Jane Roe IV, H.D.V. - Greektown, L. L. C., 415 East Congress, L. L. C. against Detroit, City of. (Attachments: # 1 Document Continuation Second Amended Complaint - part 2 of 3, # 2 Document Continuation Second Amended Complaint - part 3 of 3, # 3 Index of Exhibits, # 4 Exhibit A, # 5 Exhibit B, # 6 Exhibit C, # 7 Exhibit D - Part 1 of 2, # 8 Exhibit D - Part 2 of 2, # 9 Exhibit E, # 10 Exhibit F, # 11 Exhibit G, # 12 Exhibit H, # 13 Exhibit I - Part 1 of 2, # 14 Exhibit I - Part 2 of 2, # 15 Exhibit J, # 16 Exhibit K, # 17 Exhibit L) (Shafer, Bradley) (Entered: 05/11/2009) |
| 06/03/2009 | 85 | ANSWER to Amended Complaint with Affirmative Defenses [<i>Answer to Second Amended Complaint</i>] by Detroit, City of. (Gaabo, Eric) (Entered: 06/03/2009) |
| 06/12/2009 | 86 | JUDGMENT from U.S. Court of Appeals - Sixth Circuit re 72 Notice of Appeal filed by 415 East Congress, L. L. C., K and P, Incorporated, H.D.V. - Greektown, L. L. C., 71 Notice of Appeal filed by 415 East Congress, L. L. C., K and P, Incorporated, H.D.V. - Greektown, L. L. C. - Disposition: district court's denial of the plaintiffs' request that it declare the present owner's operation of the cabaret lawful and enjoin the City from enforcing the adult-use provisions of the zoning ordinances is reversed and remanded. With respect to the sign ordinances, district court's orders are affirmed [Appeal Case Number 08-1329/1361] (DeSa) (Entered: 06/15/2009) |
| 07/29/2009 | 87 | NOTICE TO APPEAR: Status Conference set for 8/10/2009 10:30 AM before District Judge Julian Abele Cook (KDoa) (Entered: 07/29/2009) |

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| 07/29/2009 | | Minute Entry -STATUS CONFERENCE scheduled for 8/10/09 ADJOURNED (TIME CHANGE). Status Conference ADJOURNED to 8/10/2009 03:30 PM before District Judge Julian Abele Cook (KDoa) (Entered: 07/29/2009) |
| 08/10/2009 | | Minute Entry -STATUS CONFERENCE Not Held. Status Conference RESCHEDULED to 8/19/2009 09:30 AM before District Judge Julian Abele Cook (KDoa) (Entered: 08/10/2009) |
| 08/12/2009 | 88 | ORDER re 86 Appeal Order/Opinion/Judgment. Signed by District Judge Julian Abele Cook. (KDoa) (Entered: 08/12/2009) |
| 08/25/2009 | 89 | MANDATE from U.S. Court of Appeals - Sixth Circuit as to 72 , 71 Notices of Appeal filed by 415 East Congress, L. L. C., K and P, Incorporated, H.D.V. - Greektown, L. L. C. [Appeal Case Number 08-1329/08-1361] (DTyl) (Entered: 08/25/2009) |
| 08/27/2009 | 90 | AMENDED ORDER re 88 Order. Signed by District Judge Julian Abele Cook. (KDoa) (Entered: 08/27/2009) |
| 09/11/2009 | 91 | ORDER regarding scheduling conference. Signed by District Judge Julian Abele Cook. (KDoa) (Entered: 09/11/2009) |
| 09/25/2009 | 92 | MOTION to Amend/Correct 48 Order on Motion for Summary Judgment, Order on Motion for Partial Summary Judgment [<i>City of Detroit's Motion to Revise 8-6-07 Order Pursuant to FRCP 54</i>] by Detroit, City of. (Attachments: # 1 Index of Exhibits, # 2 Exhibit A - City Council resolution denying request for transfer, # 3 Exhibit B - Carter v Salina, 773 F.2d 251 (10th Cir 1985), # 4 Exhibit C - Big Dipper Ent, LLC v City of Warren, 2009 US Dist LEXIS 84637, # 5 Exhibit D - Town of Islip v Caviglia, 141 A.D.2d 148 (1988), # 6 Exhibit E - Detroit City Code, section 1-1-10) (Gaabo, Eric) (Entered: 09/25/2009) |
| 10/08/2009 | 93 | STIPULATION , JOINT, TO EXTEND TIME FOR RESPONSE TO MOTION TO REVISE ORDER (Doc. 92) by K and P, Incorporated, H.D.V. - Greektown, L. L. C., 415 East Congress, L. L. C. (Shafer, Bradley) (Entered: 10/08/2009) |
| 10/15/2009 | 94 | STIPULATION AND ORDER EXTENDING TIME TO FILE MOTION Signed by District Judge Julian Abele Cook. (KDoa) (Entered: 10/15/2009) |
| 10/15/2009 | 95 | STIPULATION , JOINT, Second, To Extend Deadline for Response by K and P, Incorporated, H.D.V. - Greektown, L. L. C., 415 East Congress, L. L. C. (Shafer, Bradley) (Entered: 10/15/2009) |
| 10/16/2009 | 96 | ORDER re 95 Stipulation filed by 415 East Congress, L. L. C., K and P, Incorporated, H.D.V. - Greektown, L. L. C.. Signed by District Judge Julian Abele Cook. (KDoa) (Entered: 10/16/2009) |
| 10/21/2009 | 97 | NOTICE of Appearance by Scott D. Bergthold on behalf of Detroit, City of. (Bergthold, Scott) (Entered: 10/21/2009) |
| 10/22/2009 | 98 | NOTICE OF DECISION ON BRIEFS REGARDING DEFENDANT'S MOTION TO AMEND (#92) (KDoa) (Entered: 10/22/2009) |
| 10/23/2009 | 99 | STIPULATION FOR PROTECTIVE ORDER by K and P, Incorporated, Jane Roe I, Jane Roe II, Jane Roe III, Jane Roe IV, H.D.V. - Greektown, L. L. C., 415 East Congress, L. L. C. (Shafer, Bradley) (Entered: 10/23/2009) |
| 10/27/2009 | 100 | RESPONSE to <i>Defendants Motion to Revise Order</i> filed by K and P, Incorporated, H.D.V. - Greektown, L. L. C., 415 East Congress, L. L. C.. (Attachments: # 1 Index of Exhibits, # 2 Exhibit A, # 3 Exhibit B, # 4 Exhibit C, # 5 Exhibit D) (Shafer, Bradley) (Entered: 10/27/2009) |

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| 10/27/2009 | 101 | Third MOTION for Partial Summary Judgment by K and P, Incorporated, H.D.V. - Greektown, L. L. C., 415 East Congress, L. L. C.. (Attachments: # 1 Index of Exhibits, # 2 Exhibit A, # 3 Exhibit B, # 4 Exhibit C, # 5 Exhibit D, # 6 Exhibit E) (Shafer, Bradley) (Entered: 10/27/2009) |
| 11/05/2009 | 102 | ERRATA Sheet re: 100 Response to Motion, filed by 415 East Congress, L. L. C., K and P, Incorporated, H.D.V. - Greektown, L. L. C.. by K and P, Incorporated, H.D.V. - Greektown, L. L. C., 415 East Congress, L. L. C. (Shafer, Bradley) (Entered: 11/05/2009) |
| 11/16/2009 | 103 | REPLY to Response to <i>City of Detroit's Motion to Revise August 6, 2007 Order Pursuant to Rule 54</i> filed by Detroit, City of. (Gaabo, Eric) Modified on 11/17/2009 (DWor). [FILING ERROR - THIS IS ONLY THE COVER SHEET - COMPLETE DOCUMENT WILL BE FILED] (Entered: 11/16/2009) |
| 11/17/2009 | 104 | REPLY to Response to <i>City's Motion to Revise August 6, 2007 Order Pursuant to FRCP 54</i> filed by Detroit, City of. (Gaabo, Eric) (Entered: 11/17/2009) |
| 12/02/2009 | 105 | RESPONSE to 101 Third MOTION for Partial Summary Judgment filed by Detroit, City of. (Attachments: # 1 Index of Exhibits, # 2 Exhibit A - 2003 Procedures and Criteria, # 3 Exhibit B - 2009 Procedures and Criteria, # 4 Exhibit C - Detroit City Charter, section 1-102, # 5 Exhibit D - City Council resolution denying transfer petition, # 6 Exhibit E - Town Pump, Inc. v Bd of Adj, # 7 Exhibit F - Timber Properties, Inc. v Twp of Chester, # 8 Exhibit G - Sensations, Inc v City of Grand Rapids, # 9 Exhibit H - The Door Store, Inc. v City of Tacoma) (Gaabo, Eric) (Entered: 12/02/2009) |
| 12/10/2009 | 106 | MOTION TO EXTEND Deadlines in 9-1-09 Scheduling Order re 91 Order by K and P, Incorporated, Detroit, City of, Jane Roe I, Jane Roe II, Jane Roe III, H.D.V. - Greektown, L. L. C.. (Gaabo, Eric) (Entered: 12/10/2009) |
| 12/11/2009 | 107 | STIPULATION re 105 Response to Motion,, <i>for Extension of Time for Plaintiffs' Reply</i> by K and P, Incorporated, Detroit, City of, H.D.V. - Greektown, L. L. C., 415 East Congress, L. L. C. (Shafer, Bradley) (Entered: 12/11/2009) |
| 12/21/2009 | 108 | REPLY to Response re 101 Third MOTION for Partial Summary Judgment filed by K and P, Incorporated, H.D.V. - Greektown, L. L. C., 415 East Congress, L. L. C.. (Attachments: # 1 Index of Exhibits, # 2 Exhibit A, # 3 Exhibit B) (Shafer, Bradley) (Entered: 12/21/2009) |
| 01/12/2010 | 109 | STIPULATED PROTECTIVE ORDER Signed by District Judge Julian Abele Cook. (KDoa) (Entered: 01/12/2010) |
| 01/12/2010 | 110 | STIPULATION AND ORDER re 107 Stipulation Signed by District Judge Julian Abele Cook. (KDoa) (Entered: 01/12/2010) |
| 01/12/2010 | 111 | NOTICE of hearing on 101 Third MOTION for Partial Summary Judgment. Motion Hearing set for 3/1/2010 02:00 PM before District Judge Julian Abele Cook. (KDoa) (Entered: 01/12/2010) |
| 01/21/2010 | 112 | NOTICE of hearing on Motion to Amend (document #92). Motion Hearing set for 3/1/2010 02:00 PM before District Judge Julian Abele Cook. (KDoa) (Entered: 01/21/2010) |
| 02/02/2010 | 113 | STIPULATION AND ORDER re 104 Reply to Response to Motion Signed by District Judge Julian Abele Cook. (KDoa) (Entered: 02/02/2010) |
| 02/02/2010 | 114 | STIPULATION AND ORDER re 105 Response to Motion. Signed by District Judge Julian Abele Cook. (KDoa) (Entered: 02/02/2010) |
| 02/02/2010 | 115 | ORDER granting 106 MOTION TO EXTEND Deadlines in 9-1-09 Scheduling Order. |

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| | | Signed by District Judge Julian Abele Cook. (KDoa) (Entered: 02/02/2010) |
| 02/02/2010 | | Set/Reset Scheduling Order Deadlines: Discovery due by 3/12/2010 Dispositive Motion Cut-off set for 4/9/2010 Final Pretrial Conference set for 8/2/2010 01:30 PM before District Judge Julian Abele Cook Bench Trial set for 8/10/2010 08:30 AM before District Judge Julian Abele Cook (KDoa) (Entered: 02/02/2010) |
| 02/24/2010 | | Minute Entry - MOTION HEARING scheduled for 3/1/10 ADJOURNED. Motion Hearing ADJOURNED TO 3/2/2010 02:00 PM before District Judge Julian Abele Cook (KDoa) (Entered: 02/24/2010) |
| 03/02/2010 | | Minute Entry - Motion Hearing on Defendant's Motion to revise and Plaintiff's Motion for partial summary judgment held on 3/2/2010 before District Judge Julian Abele Cook. (Court Reporter JODI MATTHEWS) (KDoa) (Entered: 04/23/2010) |
| 03/05/2010 | 116 | EXHIBIT [Supplemental Exhibit F (Chapter 61 Amendments) in Support of Motion to Revise Order] by Detroit, City of (Attachments: # 1 Index of Exhibits, # 2 Exhibit F - Chapter 61 Amdendments approved 2-22-10, effective on publication) (Gaabo, Eric) (Entered: 03/05/2010) |
| 03/12/2010 | 117 | ORDER denying 92 Motion to Amend/Correct. Signed by District Judge Julian Abele Cook. (KDoa) (Entered: 03/12/2010) |
| 04/08/2010 | | Minute Entry - Scheduling Conference held on 4/8/2010, Set Deadlines/Hearings: (Bench Trial set for 8/31/2010 08:30 AM before District Judge Julian Abele Cook) before District Judge Julian Abele Cook. (KDoa) (Entered: 04/23/2010) |
| 04/23/2010 | 118 | NOTICE TO APPEAR: Bench Trial set for 11/17/2010 08:30 AM before District Judge Julian Abele Cook (KDoa) (Entered: 04/23/2010) |
| 04/23/2010 | 119 | SCHEDULING ORDER: Final Pretrial Conference set for 8/10/2010 01:30 PM before District Judge Julian Abele Cook Bench Trial set for 11/17/2010 08:30 AM before District Judge Julian Abele Cook Signed by District Judge Julian Abele Cook. (Refer to image for additional dates) (KDoa) (Entered: 04/23/2010) |
| 07/09/2010 | 120 | PLAINTIFFS' WITNESS LIST by 415 East Congress, L. L. C., H.D.V. - Greektown, L. L. C., K and P, Incorporated, Jane Roe I, Jane Roe II, Jane Roe III, Jane Roe IV (Shafer, Bradley) (Entered: 07/09/2010) |
| 07/09/2010 | 121 | WITNESS LIST by Detroit, City of (Gaabo, Eric) (Entered: 07/09/2010) |
| 07/28/2010 | | Minute Entry - PRETRIAL CONFERENCE scheduled for 8/2/10 ADJOURNED. Pretrial Conference ADJOURNED to 11/15/2010 02:30 PM before District Judge Julian Abele Cook (KDoa) (Entered: 07/28/2010) |
| 09/08/2010 | 122 | ORDER granting in part and denying in part 101 Motion for Partial Summary Judgment. Signed by District Judge Julian Abele Cook. (KDoa) (Entered: 09/08/2010) |
| 09/22/2010 | 123 | MOTION to Amend/Correct 122 Order on Motion for Partial Summary Judgment by 415 East Congress, L. L. C., H.D.V. - Greektown, L. L. C., K and P, Incorporated. (Shafer, Bradley) (Entered: 09/22/2010) |
| 10/08/2010 | 124 | AMENDED SCHEDULING ORDER: Final Pretrial Conference set for 11/15/2010 02:30 PM before District Judge Julian Abele Cook Bench Trial set for 11/17/2010 08:30 AM before District Judge Julian Abele Cook Signed by District Judge Julian Abele Cook. (Refer to image for additional dates) (KDoa) (Entered: 10/08/2010) |
| 10/22/2010 | 125 | ORDER re 123 MOTION to Amend/Correct 122 Order on Motion for Partial Summary Judgment filed by 415 East Congress, L. L. C., K and P, Incorporated, H.D.V. - |

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| | | Greektown, L. L. C.. Signed by District Judge Julian Abele Cook. Motion will be decided on the briefs without oral argument. (KDoa) (Entered: 10/22/2010) |
| 11/09/2010 | | Minute Entry - PRETRIAL CONFERENCE scheduled for 11/15/10 CANCELLED. Pretrial Conference and Trial date will be rescheduled, order to be entered by the Court. (KDoa) (Entered: 11/09/2010) |
| 11/18/2010 | 126 | ORDER denying 123 Motion to Amend/Correct. Signed by District Judge Julian Abele Cook. (KDoa) (Entered: 11/18/2010) |
| 11/18/2010 | 127 | ORDER AMENDING SCHEDULING ORDER DATES (Final Pretrial Conference set for 1/19/2011 02:00 PM before District Judge Julian Abele Cook, Bench Trial set for 1/25/2011 08:30 AM before District Judge Julian Abele Cook) Signed by District Judge Julian Abele Cook. (see image for additional dates) (KDoa) (Entered: 11/18/2010) |
| 01/12/2011 | | Minute Entry - PRETRIAL CONFERENCE AND TRIAL DATE ADJOURNED. BENCH TRIAL ADJOURNED TO MARCH 29, 2011 AT 8:30 A.M. AMENDED SCHEDULING ORDER INCLUDING PRETRIAL CONFERENCE DATE AND OTHER DATES WILL BE ENTERED AT A LATER DATE. (KDoa) (Entered: 01/12/2011) |
| 01/27/2011 | 128 | AMENDED SCHEDULING ORDER: Final Pretrial Conference set for 3/21/2011 01:30 PM before District Judge Julian Abele Cook Bench Trial set for 3/29/2011 08:30 AM before District Judge Julian Abele Cook Signed by District Judge Julian Abele Cook. (Refer to image for additional dates) (KDoa) (Entered: 01/27/2011) |
| 02/22/2011 | 129 | MOTION for Withdrawal of Attorney Scott D. Bergthold by Detroit, City of. (Bergthold, Scott) (Entered: 02/22/2011) |
| 03/02/2011 | 130 | ORDER re 129 MOTION for Withdrawal of Attorney Scott D. Bergthold filed by Detroit, City of. Response due within 7 days. Signed by District Judge Julian Abele Cook. (KDoa) (Entered: 03/02/2011) |
| 03/02/2011 | 131 | RESPONSE to 129 MOTION for Withdrawal of Attorney Scott D. Bergthold [<i>City's Concurrence in Motion to Withdraw</i>] filed by Detroit, City of. (Gaabo, Eric) (Entered: 03/02/2011) |
| 03/09/2011 | | TEXT-ONLY ORDER GRANTING re 129 MOTION for Withdrawal of Attorney Scott D. Bergthold filed by Detroit, City of. Signed by District Judge Julian Abele Cook. (KDoa) (Entered: 03/09/2011) |
| 03/14/2011 | 132 | MOTION in Limine to Exclude Testimony and Other Evidence Relating to (1) Alleged Withdrawal of Sign Application, (2) Alleged Failure to Supplement Sign Application, (3) Misconduct on the 415 E Congress Premises and/or at other Detroit Adult Cabarets by All Plaintiffs. (Attachments: # 1 Index of Exhibits, # 2 Exhibit A, # 3 Exhibit B, # 4 Exhibit C) (Shafer, Bradley) (Entered: 03/14/2011) |
| 03/14/2011 | 133 | Joint MOTION in Limine by All Plaintiffs. (Attachments: # 1 Index of Exhibits, # 2 Exhibit A - Expert Report of Shindel, Rock & Associates, # 3 Exhibit B - (part 1 of 3) Expert Report of Mauricio Kohn, # 4 Document Continuation Exhibit B - (part 2 of 3) Expert Report of Mauricio Kohn, # 5 Document Continuation Exhibit B - (part 3 of 3) Expert Report of Mauricio Kohn, # 6 Exhibit C - Warranty Deed, # 7 Exhibit D - Lease, # 8 Exhibit E - NACVA Classifications of Membership, # 9 Exhibit F - NACVA Professional Standards, # 10 Exhibit G - Value Examiner Article by Shindel and Montie, # 11 Exhibit H - (part 1 of 2) Deposition Transcript of Mauricio Kohn, # 12 Document Continuation Exhibit H - (part 2 of 2) Deposition Transcript of Mauricio Kohn) (Shafer, Bradley) (Entered: 03/14/2011) |
| 03/14/2011 13-53846-jt | 134 | MOTION in Limine by Detroit, City of. (Attachments: # 1 Index of Exhibits, # 2 Exhibit A - Expert Report of Shindel, Rock & Associates, # 3 Exhibit B - (part 1 of 3) Expert Report of Mauricio Kohn, # 4 Document Continuation Exhibit B - (part 2 of 3) Expert Report of Mauricio Kohn, # 5 Document Continuation Exhibit B - (part 3 of 3) Expert Report of Mauricio Kohn, # 6 Exhibit C - Warranty Deed, # 7 Exhibit D - Lease, # 8 Exhibit E - NACVA Classifications of Membership, # 9 Exhibit F - NACVA Professional Standards, # 10 Exhibit G - Value Examiner Article by Shindel and Montie, # 11 Exhibit H - (part 1 of 2) Deposition Transcript of Mauricio Kohn, # 12 Document Continuation Exhibit H - (part 2 of 2) Deposition Transcript of Mauricio Kohn) (Shafer, Bradley) (Entered: 03/14/2011) |

Doc 12873 Filed 08/10/18 Entered 08/10/18 17:37:39 Page 42 of 61 EXHIBIT 6-1

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| | | A -3-11-11 jfpto, # 3 Exhibit B - 3-14-11 JFPTO, # 4 Exhibit C - city's discovery requests, # 5 Exhibit D - Zoltowski letter) (Gaabo, Eric) (Entered: 03/15/2011) |
| 03/21/2011 | | Minute Entry - Telephonic Final Pretrial Conference held on 3/21/2011 before District Judge Julian Abele Cook. (KDoa) (Entered: 03/22/2011) |
| 03/22/2011 | 135 | JOINT FINAL PRETRIAL ORDER Signed by District Judge Julian Abele Cook. (KDoa) (Entered: 03/22/2011) |
| 03/25/2011 | 136 | ORDER REFERRING OTHER MATTERS to *Magistrate Judge R. Steven Whalen* : *Settlement Conference*. Signed by District Judge Julian Abele Cook. (KDoa) (Entered: 03/25/2011) |
| 03/25/2011 | 137 | NOTICE TO APPEAR: Settlement Conference set for 3/28/2011 01:30 PM before Magistrate Judge R. Steven Whalen (KDoa) (Entered: 03/25/2011) |
| 03/25/2011 | 138 | TRIAL BRIEF by 415 East Congress, L. L. C., H.D.V. - Greektown, L. L. C., K and P, Incorporated (Shafer, Bradley) (Entered: 03/25/2011) |
| 03/25/2011 | 139 | TRIAL BRIEF by Detroit, City of (Attachments: # 1 Index of Exhibits, # 2 Exhibit A - Subpoena to custodian of income tax returns) (Gaabo, Eric) (Entered: 03/25/2011) |
| 03/28/2011 | 140 | RESPONSE to 132 MOTION in Limine to <i>Exclude Testimony and Other Evidence Relating to (1) Alleged Withdrawal of Sign Application, (2) Alleged Failure to Supplement Sign Application, (3) Misconduct on the 415 E Congress Premises and/or at other Detroit Adult Cabaret</i> MOTION in Limine to <i>Exclude Testimony and Other Evidence Relating to (1) Alleged Withdrawal of Sign Application, (2) Alleged Failure to Supplement Sign Application, (3) Misconduct on the 415 E Congress Premises and/or at other Detroit Adult Cabaret filed by Detroit, City of.</i> (Gaabo, Eric) (Entered: 03/28/2011) |
| 03/28/2011 | 141 | RESPONSE to 134 MOTION in Limine filed by 415 East Congress, L. L. C., H.D.V. - Greektown, L. L. C., K and P, Incorporated. (Attachments: # 1 Index of Exhibits, # 2 Exhibit 1 - 11/06/09 Discovery Request, # 3 Exhibit 2 - 1/15/10 Response to Discovery Request, # 4 Exhibit 3 - 2/12/2010 Discovery Request, # 5 Exhibit 4 - 4/2/10 Response to Discovery Request, # 6 Exhibit 2/3/10 Discovery Request, # 7 Exhibit 6 - 12/29/10 Correspondence, # 8 Exhibit 3/8/11 Correspondence, # 9 Exhibit Excerpt from Final Pretrial Order, # 10 Exhibit 9 - Index of Plaintiffs' Trial Exhibit Binder) (Shafer, Bradley) (Entered: 03/28/2011) |
| 03/28/2011 | 142 | RESPONSE to 133 Joint MOTION in Limine [to exclude testimony by Defendant's expert, Mauricio Kohn] filed by Detroit, City of. (Attachments: # 1 Index of Exhibits, # 2 Exhibit A - Kohn Expert report, # 3 Exhibit B - Kohn CV and summary of testimony, # 4 Exhibit C - Aviamax v Bombardier, # 5 Exhibit D - DynCorp v Ocean Marine Nav, # 6 Exhibit E - Moody v Ford Motor Co, # 7 Exhibit F - Ballard v Keen Transportation) (Gaabo, Eric) (Entered: 03/28/2011) |
| 03/28/2011 | | Minute Entry - Settlement Conference held on 3/28/2011 before Magistrate Judge R. Steven Whalen. Disposition: No settlement agreement reached. (MLan) (Entered: 03/28/2011) |
| 03/29/2011 | | Minute Entry - BENCH TRIAL Not Held before District Judge Julian Abele Cook. Settlement placed on the record, waiting on Board approval. Disposition: SETTLED(Court Reporter LAWRENCE PRZYBYSZ) (KDoa) (Entered: 04/15/2011) |
| 05/10/2011 | 143 | ORDER REFERRING OTHER MATTERS to *Magistrate Judge R. Steven Whalen* : *Settlement Conference*. Signed by District Judge Julian Abele Cook. (KDoa) (Entered: 05/10/2011) |
| 05/13/2011 13-53846-tjt | | NOTICE: Telephone Conference set for 5/18/2011 01:30 PM before Magistrate Judge Doc 12873 Filed 08/16/18 Entered 08/16/18 17:37:39 Page 43 of 64 EXHIBIT 6-1 |

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| | | R. Steven Whalen REGARDING SETTLEMENT ISSUES. (MLan) (Entered: 05/13/2011) |
| 05/18/2011 | | Minute Entry - Telephonic Settlement Conference held on 5/18/2011 before Magistrate Judge R. Steven Whalen. Disposition: Parties to meet and confer and contact the court within 7 days for a telephone conference. (MLan) (Entered: 05/18/2011) |
| 06/01/2011 | | TEXT ONLY NOTICE - Settlement Conference CONTINUED TO 6/20/2011 02:00 PM before Magistrate Judge R. Steven Whalen IN ROOM 673 OF THE U.S. COURTHOUSE IN DETROIT, MICHIGAN. (MLan) (Entered: 06/01/2011) |
| 06/20/2011 | | Minute Entry - Settlement Conference held on 6/20/2011 before Magistrate Judge R. Steven Whalen. Disposition: No agreement reached - parties to notify court within 7 days of progress. (MLan) (Entered: 06/20/2011) |
| 07/21/2011 | | Remark - SETTLED, awaiting approval (KDoa) (Entered: 07/21/2011) |
| 08/09/2011 | 144 | STIPULATION of Dismissal by Jane Roe I, Jane Roe II, Jane Roe III, Jane Roe IV (Shafer, Bradley) (Entered: 08/09/2011) |
| 08/23/2011 | 145 | CONSENT DECREE Signed by District Judge Julian Abele Cook. (KDoa) Modified on 9/8/2011 (KDoa). (Entered: 08/23/2011) |
| 09/02/2011 | 146 | Ex Parte MOTION for Leave to File Excess Pages <i>re Brief in Support of Plaintiffs' Motion for Attorney's Fees and Costs</i> by 415 East Congress, L. L. C., H.D.V. - Greektown, L. L. C., K and P, Incorporated. (Shafer, Bradley) (Entered: 09/02/2011) |
| 09/13/2011 | | TEXT-ONLY ORDER re 146 Ex Parte MOTION for Leave to File Excess Pages <i>re Brief in Support of Plaintiffs' Motion for Attorney's Fees and Costs</i> filed by 415 East Congress, L. L. C., K and P, Incorporated, H.D.V. - Greektown, L. L. C.. GRANTED Signed by District Judge Julian Abele Cook. (KDoa) (Entered: 09/13/2011) |
| 09/14/2011 | 147 | STIPULATION AND ORDER EXTENDING DEADLINE FOR PLAINTIFFS TO FILE MOTION FOR ATTORNEY FEES AND COSTS - DUE 10/4/11 Signed by District Judge Julian Abele Cook. (KDoa) (Entered: 09/14/2011) |
| 10/04/2011 | 148 | MOTION for Attorney Fees <i>and Costs</i> by 415 East Congress, L. L. C., H.D.V. - Greektown, L. L. C., K and P, Incorporated. (Attachments: # 1 Index of Exhibits, # 2 Exhibit A, # 3 Exhibit B, # 4 Exhibit B-1, # 5 Document Continuation Exhibit B-1 Continued, # 6 Exhibit B-2, # 7 Exhibit B-3, # 8 Exhibit B-4, # 9 Exhibit B-5, # 10 Exhibit B-6, # 11 Exhibit C, # 12 Exhibit D, # 13 Exhibit E, # 14 Exhibit F, # 15 Exhibit G) (Shafer, Bradley) (Entered: 10/04/2011) |
| 10/14/2011 | 149 | NOTICE OF DECISION ON BRIEFS re 148 MOTION for Attorney Fees <i>and Costs</i> . Motion will be decided upon by the briefs. (KDoa) (Entered: 10/14/2011) |
| 10/17/2011 | 150 | STIPULATION AND ORDER, Set Motion and R&R Deadlines/Hearings as to 148 MOTION for Attorney Fees <i>and Costs</i> :(Responses due by 11/8/2011, Replies due by 12/2/2011) Signed by District Judge Julian Abele Cook. (KDoa) (Entered: 10/17/2011) |
| 11/09/2011 | 151 | STIPULATION AND ORDER re 148 MOTION for Attorney Fees <i>and Costs</i> , Set Motion and R&R Deadlines/Hearings as to 148 MOTION for Attorney Fees <i>and Costs</i> :(Responses due by 11/10/2011, Replies due by 12/5/2011) Signed by District Judge Julian Abele Cook. (KDoa) (Entered: 11/09/2011) |
| 11/10/2011 | 152 | RESPONSE to 148 MOTION for Attorney Fees <i>and Costs</i> filed by Detroit, City of. (Attachments: # 1 Index of Exhibits, # 2 Exhibit A - Aff of EBG, # 3 Exhibit B - Lamar Adv v Van Buren Twp, # 4 Exhibit C - Adams v Bureau of Collection, # 5 Exhibit D - Mich State Bar fee survey, # 6 Exhibit E - billings for Jane Roe Ps, # 7 Exhibit F - Barrett |

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| | | v W. Chester Univ, # 8 Exhibit G - Billings re sign mot and sign appeal, # 9 Exhibit H - billings re Conyers and Riddle, # 10 Exhibit I - Sam Riddle indictment, # 11 Exhibit J - LGI website, # 12 Exhibit K - billings re lobbying, # 13 Exhibit L - billings re media, # 14 Exhibit M - billings re travel, # 15 Exhibit N - Distance Lansing to Det, # 16 Exhibit O - distance Lansing to Novi, # 17 Exhibit P - distance lansing to Royal Oak, # 18 Exhibit Q - Distance Lansing to Southgate, # 19 Exhibit R - Distance Lansing to Westland, # 20 Exhibit S - Mangino v Penn, # 21 Exhibit T - spreadsheet re clerks, # 22 Exhibit U - Listing for O'Meara, # 23 Exhibit V - Misc Obj in 2003 case, # 24 Exhibit W - billings re initial comp, # 25 Exhibit X = billings re first am comp, # 26 Exhibit Y - billings re first mot for sum jud, # 27 Exhibit Z - billings re mot for atty fees) (Gaabo, Eric) (Entered: 11/10/2011) |
| 11/10/2011 | 153 | RESPONSE to 148 MOTION for Attorney Fees and Costs [<i>Exhibits AA, BB and CC to City's Brief in Opposition to Mot for Attys Fees</i>] filed by Detroit, City of. (Attachments: # 1 Exhibit BB - City budget showing deficit, # 2 Exhibit CC - Ford Motor Co v Lloyd Design Group) (Gaabo, Eric) (Entered: 11/10/2011) |
| 11/10/2011 | 154 | MOTION for Leave to File Excess Pages [<i>regarding City's Brief in Opposition to Remaining Plaintiffs' Motion for Attorney Fees and Costs</i>] by Detroit, City of. (Gaabo, Eric) (Entered: 11/10/2011) |
| 12/05/2011 | 155 | REPLY to Response re 148 MOTION for Attorney Fees and Costs filed by 415 East Congress, L. L. C., H.D.V. - Greektown, L. L. C., K and P, Incorporated. (Attachments: # 1 Index of Exhibits, # 2 Exhibit A, # 3 Exhibit B, # 4 Exhibit C, # 5 Exhibit D, # 6 Exhibit E, # 7 Exhibit F, # 8 Exhibit G, # 9 Exhibit H, # 10 Exhibit I, # 11 Exhibit J, # 12 Exhibit K, # 13 Exhibit L, # 14 Exhibit M, # 15 Exhibit N) (Shafer, Bradley) (Entered: 12/05/2011) |
| 12/05/2011 | 156 | Ex Parte MOTION for Leave to File Excess Pages <i>Re: Plaintiffs' Reply in Support of Their Motion for Attorney Fees and Costs</i> 155 by 415 East Congress, L. L. C., H.D.V. - Greektown, L. L. C., K and P, Incorporated. (Shafer, Bradley) (Entered: 12/05/2011) |
| 01/11/2012 | | TEXT-ONLY ORDER GRANTING 154 MOTION for Leave to File Excess Pages [<i>regarding City's Brief in Opposition to Remaining Plaintiffs' Motion for Attorney Fees and Costs</i>] filed by Detroit, City of AND 156 Ex Parte MOTION for Leave to File Excess Pages <i>Re: Plaintiffs' Reply in Support of Their Motion for Attorney Fees and Costs</i> 155 filed by 415 East Congress, L. L. C., K and P, Incorporated, H.D.V. - Greektown, L. L. C.. Signed by District Judge Julian Abele Cook. (KDoa) (Entered: 01/11/2012) |
| 02/23/2012 | 157 | SUPPLEMENTAL BRIEF re 148 MOTION for Attorney Fees and Costs filed by 415 East Congress, L. L. C., H.D.V. - Greektown, L. L. C., K and P, Incorporated. (Attachments: # 1 Exhibit A - Second Supplemental Affidavit of Bradley J. Shafer) (Shafer, Bradley) (Entered: 02/23/2012) |
| 04/11/2012 | 158 | AFFIDAVIT of Eric B. Gaabo re 152 Response to Motion,,,,, [<i>Amended Exhibit A to City's brief in opposition to remaining plaintiffs' motion for attorney fees and costs (this is identical to Exhibit A to brief filed 11-10-11, except that this affidavit is signed and notarized)</i>] filed by Detroit, City of. (Gaabo, Eric) (Entered: 04/11/2012) |
| 04/19/2012 | | **TEXT ONLY** ORDER REASSIGNING CASE pursuant to 11-AO-003 from Magistrate Judge Virginia M. Morgan to Magistrate Judge R. Steven Whalen. (SSch) (Entered: 04/19/2012) |
| 04/20/2012 | 159 | ORDER REFERRING MOTION to Magistrate Judge R. Steven Whalen: 148 MOTION for Attorney Fees and Costs filed by 415 East Congress, L. L. C., K and P, Incorporated, |

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| | | H.D.V. - Greektown, L. L. C.. Signed by District Judge Julian Abele Cook. (KDoa) (Entered: 04/20/2012) |
| 05/17/2012 | 160 | NOTICE of hearing on 148 MOTION for Attorney Fees and Costs. Motion Hearing set for 6/28/2012 at 10:00 AM before Magistrate Judge R. Steven Whalen. (THac) (Entered: 05/17/2012) |
| 06/28/2012 | | Minute Entry - Motion Hearing held on 6/28/2012 re 148 MOTION for Attorney Fees and Costs filed by 415 East Congress, L. L. C., K and P, Incorporated, H.D.V. - Greektown, L. L. C. before Magistrate Judge R. Steven Whalen. Disposition: TAKEN UNDER ADVISEMENT. (Tape #RSW 6/28/2012) (JCur) (Entered: 06/29/2012) |
| 08/15/2012 | 161 | TRANSCRIPT of Motion For Attorney Fees held on 6-28-12. (Transcriber: Linda M. Cavanagh) (Number of Pages: 43) The parties have 21 days to file with the court and Transcriber a Redaction Request of this transcript. If no request is filed, the transcript may be made remotely electronically available to the public without redaction after 90 days. Redaction Request due 9/5/2012. Redacted Transcript Deadline set for 9/17/2012. Release of Transcript Restriction set for 11/13/2012. Transcript may be viewed at the court public terminal or purchased through the Transcriber Linda M. Cavanagh at linda_cavanagh@mied.uscourts.gov before the deadline for Release of Transcript Restriction. After that date, the transcript is publicly available. (Cavanagh, Linda) (Entered: 08/15/2012) |
| 05/23/2013 | 162 | REPORT AND RECOMMENDATION re: 148 MOTION for Attorney Fees and Costs filed by 415 East Congress, L. L. C., K and P, Incorporated, H.D.V. - Greektown, L. L. C. Signed by Magistrate Judge R. Steven Whalen. (MWil) (Entered: 05/23/2013) |
| 06/03/2013 | 163 | Ex Parte MOTION for Leave to File Excess Pages <i>re Objections to Report and Recommendation (Doc. 162)</i> - UNOPPOSED by 415 East Congress, L. L. C., H.D.V. - Greektown, L. L. C., K and P, Incorporated. (Shafer, Bradley) (Entered: 06/03/2013) |
| 06/05/2013 | 164 | OBJECTION to <i>Magistrate's Report and Recommendation (Dkt. 162)</i> by All Plaintiffs. (Shafer, Bradley) (Entered: 06/05/2013) |
| 06/06/2013 | 165 | CERTIFICATE OF SERVICE re 164 Objection by All Plaintiffs (Shafer, Bradley) (Entered: 06/06/2013) |
| 06/18/2013 | | TEXT-ONLY ORDER GRANTING 163 Ex Parte MOTION for Leave to File Excess Pages <i>re Objections to Report and Recommendation (Doc. 162)</i> - UNOPPOSED filed by 415 East Congress, L. L. C., K and P, Incorporated, H.D.V. - Greektown, L. L. C.. Signed by District Judge Julian Abele Cook. (KDoa) (Entered: 06/18/2013) |
| 06/18/2013 | 166 | STIPULATION AND ORDER re 164 Objection - DEFENDANT'S RESPONSE TO OBJECTION DUE JUNE 26, 2013. Signed by District Judge Julian Abele Cook. (KDoa) (Entered: 06/18/2013) |
| 06/26/2013 | 167 | RESPONSE to 148 MOTION for Attorney Fees and Costs <i>City's Response to Remaining Plaintiffs' Objections to Magistrate's Report</i> filed by Detroit, City of. (Attachments: # 1 Index of Exhibits, # 2 Exhibit A, # 3 Exhibit B, # 4 Exhibit C) (Gaabo, Eric) Modified on 6/27/2013 (PMil). [DOCUMENT ENTITLED DEFENDANT CITY OF DETROIT'S RESPONSE TO REMAINING PLAINTIFFS' OBJECTIONS TO MAGISTRATE'S REPORT AND RECOMMENDATION REGARDING MOTION FOR ATTORNEY FEES AND COSTS] (Entered: 06/26/2013) |
| 08/20/2013 | 168 | SUGGESTION OF BANKRUPTCY Upon the Record by Detroit, City of (Gaabo, Eric) Modified on 8/20/2013 (DWor). [NOTICE OF SUGGESTION OF PENDENCY OF BANKRUPTCY CASE AND APPLICATION OF THE AUTOMATIC STAY] (Entered: 08/20/2013) |

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| 08/23/2013 | | TEXT-ONLY ORDER re 162 REPORT AND RECOMMENDATION re 148 MOTION for Attorney Fees <i>and Costs</i> filed by 415 East Congress, L. L. C., K and P, Incorporated, H.D.V. - Greektown, L. L. C., 148 MOTION for Attorney Fees <i>and Costs</i> filed by 415 East Congress, L. L. C., K and P, Incorporated, H.D.V. - Greektown, L. L. C.. PURSUANT TO PENDING BANKRUPTCY PROCEEDINGS, MOTION FOR ATTORNEY FEES AND REPORT AND RECOMMENDATION ARE STAYED UNTIL BANKRUPTCY PROCEEDINGS ARE COMPLETED. PLAINTIFF AND DEFENDANT DIRECTED TO CONTACT THE COURT AS SOON AS THE BANKRUPTCY STAY HAS BEEN LIFTED. Signed by District Judge Julian Abele Cook. (KDoa) (Entered: 08/23/2013) |
| 10/29/2014 | | Text-Only Order of reassignment from District Judge Julian Abele Cook to District Judge Arthur J. Tarnow pursuant to Administrative Order. (SSch) (Entered: 10/29/2014) |
| 03/31/2015 | 169 | ORDER granting in part and denying in part 148 Motion for Attorney Fees; adopting 162 Report and Recommendation. Signed by District Judge Arthur J. Tarnow. (MLan) (Entered: 03/31/2015) |
| 04/20/2015 | 170 | NOTICE OF APPEAL by 415 East Congress, L. L. C., H.D.V. - Greektown, L. L. C., K and P, Incorporated re 169 Order on Motion for Attorney Fees, Order on Report and Recommendation. Receipt No: 0645-5124768 - Fee: \$ 505 - Fee Status: Fee Paid. (Hoffer, Matthew) (Entered: 04/20/2015) |
| 04/21/2015 | 171 | Certificate of Service re 170 Notice of Appeal. (TMcg) (Entered: 04/21/2015) |
| 08/23/2016 | 172 | OPINION from U.S. Court of Appeals - Sixth Circuit re 170 Notice of Appeal, filed by 415 East Congress, L. L. C., K and P, Incorporated, H.D.V. - Greektown, L. L. C. [Appeal Case Number 15-1449] (Ahmed, N) (Entered: 08/23/2016) |
| 09/14/2016 | 173 | MANDATE from U.S. Court of Appeals - Sixth Circuit as to 172 Appeal Order/Opinion/Judgment, 170 Notice of Appeal, filed by 415 East Congress, L. L. C., K and P, Incorporated, H.D.V. - Greektown, L. L. C. [Appeal Case Number 15-1449] (Ahmed, N) (Entered: 09/14/2016) |
| 09/20/2016 | 174 | Second MOTION ATTORNEY FEES AND COSTS re 148 MOTION for Attorney Fees <i>and Costs Supplemental</i> by 415 East Congress, L. L. C., H.D.V. - Greektown, L. L. C., K and P, Incorporated. (Attachments: # 1 Index of Exhibits Index of Exhibits, # 2 Exhibit Affidavit of Bradley J. Shafer, # 3 Exhibit Order Confirming Eighth Amended Plan for the Adjustment of Debts of the City of Detroit (Doc 8272), # 4 Exhibit "Class 14 - Other Unsecured Claims" have an "Estimated Percentage Recovery" of 10-13 percent (Doc 4391), # 5 Exhibit Motion for an Order Approving Reserve Amounts (Doc 9351), # 6 Exhibit Order Approving Reserve Amounts (Doc 9701)) (Shafer, Bradley) (Entered: 09/20/2016) |
| 09/26/2016 | 175 | ORDER REFERRING MOTION to Magistrate Judge R. Steven Whalen: 174 Second MOTION ATTORNEY FEES AND COSTS. Signed by District Judge Arthur J. Tarnow. (MLan) (Entered: 09/26/2016) |
| 10/04/2016 | 176 | RESPONSE to 174 Second MOTION ATTORNEY FEES AND COSTS re 148 MOTION for Attorney Fees <i>and Costs Supplemental</i> filed by All Defendants. (Attachments: # 1 Index of Exhibits, # 2 Exhibit A - Brumitte v Astrue, # 3 Exhibit B - Hawkins v Astrue, # 4 Exhibit C - Hagan v MRS Assoc., Inc., # 5 Exhibit D - Dzwonkowski v Dzwonkowski, # 6 Exhibit E - examples of documents reviewed as noted in billing statements, # 7 Exhibit F - highlighted billing entries charged at 0.25 hours) (Gaabo, Eric) (Entered: 10/04/2016) |
| 10/13/2016 13-53846-tjt | 177 | STIPULATION AND ORDER re 174 Second MOTION ATTORNEY FEES AND COSTS re 148 MOTION for Attorney Fees <i>and Costs Supplemental</i> - Signed by Doc 12873 Filed 08/16/18 Entered 08/16/18 17:37:39 Page 4 of 6 EXHIBIT 6-1 |

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| | | Magistrate Judge R. Steven Whalen. (CCie) (Entered: 10/13/2016) |
| 10/18/2016 | 178 | REPLY to Response re 174 Second MOTION ATTORNEY FEES AND COSTS re 148 MOTION for Attorney Fees and Costs <i>Supplemental</i> filed by 415 East Congress, L. L. C., H.D.V. - Greektown, L. L. C., K and P, Incorporated. (Hoffer, Matthew) (Entered: 10/18/2016) |
| 09/28/2017 | 179 | REPORT AND RECOMMENDATION RECOMMENDING GRANTING IN PART AND DENYING IN PART PLAINTIFFS' 174 Second MOTION ATTORNEY FEES AND COSTS re 148 MOTION for Attorney Fees and Costs <i>Supplemental</i> filed by 415 East Congress, L. L. C., K and P, Incorporated, H.D.V. - Greektown, L. L. C. - Signed by Magistrate Judge R. Steven Whalen. (CCie) (Entered: 09/28/2017) |
| 10/03/2017 | 180 | ERRATA SHEET TO 179 REPORT AND RECOMMENDATION - re 174 Second MOTION ATTORNEY FEES AND COSTS re 148 MOTION for Attorney Fees and Costs <i>Supplemental</i> filed by 415 East Congress, L. L. C., K and P, Incorporated, H.D.V. - Greektown, L. L. C. - Signed by Magistrate Judge R. Steven Whalen. (CCie) (Entered: 10/03/2017) |
| 10/12/2017 | 181 | OBJECTION to 179 Report and Recommendation by 415 East Congress, L. L. C., H.D.V. - Greektown, L. L. C., K and P, Incorporated. (Hoffer, Matthew) (Entered: 10/12/2017) |
| 01/25/2018 | 182 | ORDER adopting in part 179 Report and Recommendation; Overruling 181 Objections and granting in part and denying in part 174 Second Motion for Attorney's Fees. Signed by District Judge Arthur J. Tarnow. (MLan) (Entered: 01/25/2018) |
| 02/22/2018 | 183 | NOTICE OF APPEAL by 415 East Congress, L. L. C., H.D.V. - Greektown, L. L. C., K and P, Incorporated re 182 Order on Motion - Free, Order on Report and Recommendation. Receipt No: 0645-6613609 - Fee: \$ 505 - Fee Status: Fee Paid. (Hoffer, Matthew) (Entered: 02/22/2018) |
| 02/23/2018 | 184 | Certificate of Service re 183 Notice of Appeal,. (SKra) (Entered: 02/23/2018) |

| PACER Service Center | | | |
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| Transaction Receipt | | | |
| 07/30/2018 17:39:06 | | | |
| PACER Login: | MattHoffer:4024687:5308081 | Client Code: | Greektown |
| Description: | Docket Report | Search Criteria: | 2:06-cv-11282-AJT-RSW |
| Billable Pages: | 19 | Cost: | 1.90 |

EXHIBIT 6-2

Notice of Suggestion of Pendency of Bankruptcy Case and Application
of the Automatic Stay

in H.D.V. Greektown, LLC v. City of Detroit,

2:06-cv-11282-AJT-RSW

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

H.D.V. - GREEKTOWN, LLC, a Michigan
Limited Liability Company, **415 EAST
CONGRESS, LLC**, a Michigan Limited
Liability Company, and **K & P, INC.** f/d/b/a
Deja Vu, d/b/a **Zoo Bar**,

Case No. 06-11282
Hon.: Julian Abele Cook, Jr.
Magistrate: R. Steven Whalen

Plaintiffs,

vs.

CITY OF DETROIT, a Municipal Corporation,

Defendant.

BRADLEY J. SHAFER, MI (P-36604)
MATTHEW J. HOFFER (P-70495)
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Attorneys for Plaintiff
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JAMES D. NOSEDA (P-52563)
ERIC B. GAABO (P-39213)
Attorneys for Defendant
City of Detroit Law Department
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2 Woodward Avenue, Suite 500
Detroit, Michigan 48226
(313) 237-3052

**NOTICE OF SUGGESTION OF PENDENCY OF BANKRUPTCY
CASE AND APPLICATION OF THE AUTOMATIC STAY**

On July 18, 2013 ("the Petition Date"), the City of Detroit, Michigan ("the City") filed a petition for relief under chapter 9 of title 11 of the United States Code ("the Bankruptcy Code"). The City's bankruptcy case is captioned *In re City of Detroit, Michigan*, Case No. 13-53846, (Bankr. E.D. Mich.) ("the Chapter 9 Case"), and is pending in the United States Bankruptcy Court for the Eastern District of Michigan ("the Bankruptcy Court").

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In accordance with sections 362 and 922 of the Bankruptcy Code, except as provided for in subsection (b) of section 362, the filing of the Chapter 9 Case operates as a stay, applicable to all entities, of:

- (1) the commencement or continuation of any judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the filing of the Chapter 9 Case, or to recover a claim against the City that arose before the commencement of the Chapter 9 Case;
- (2) the enforcement, against the City or against property of the City, of a judgment obtained before the filing of the Chapter 9 case;
- (3) any act to obtain possession of property of the City or to exercise control over property of the City;
- (4) any act to create, perfect or enforce any lien against property of the City;
- (5) any act to create, perfect or enforce against property of the City any lien, to the extent that such lien secures a claim that arose before the commencement of the Chapter 9 Case;
- (6) any act to collect, assess, or recover a claim against the City that arose before the commencement of the Chapter 9 Case; and
- (7) the setoff of any debt owing to the City that arose prior to the commencement of the Chapter 9 Case against any claim against the City.

Accordingly, none of the above actions may be commenced or continued against the City without the Bankruptcy Court first issuing an order lifting or modifying the Stay for such specific purpose.

Actions taken in violation of the Stay, and judgments or orders entered or enforced against the City, or its officers or non-officer employees, agents or representatives to enforce a claim against the City, while the Stay is in effect, are void and without effect.

Neither the Bankruptcy Court nor the United States District Court for the Eastern District of Michigan has issued an order lifting or modifying the Stay for the specific purpose of allowing any party to the present case to commence or continue any cause of action against the City or its officers or inhabitants. As such, the present case may not be prosecuted, and no valid judgment or order may be entered or enforced against the City or its officers or non-officer employees, agents or representatives.

In light of the foregoing, the City will not defend against, or take any other action with respect to, the present case while the Stay remains in effect.

The City hereby expressly reserves all rights with respect to the present case, including, but not limited to, the right to move to vacate any judgment or order entered in the present case while the Stay is in effect as void.

Respectfully submitted,

S/ Eric B. Gaabo (P39213)
gaabe@detroitmi.gov
Assistant Corporation Counsel
Attorney for Defendant City of Detroit
Coleman A. Young Municipal Center
2 Woodward Avenue, Suite 500
Detroit, MI 48226
(313) 237-3052

Dated: August 20, 2013

CERTIFICATE OF SERVICE:

**NOTICE OF SUGGESTION OF PENDENCY OF BANKRUPTCY
CASE AND APPLICATION OF THE AUTOMATIC STAY**

I state that on August 20, 2013, I served Notice of Suggestion of Pendency of Bankruptcy Case and Application of the Automatic Stay on the remaining Plaintiffs in this case by filing these documents electronically with the U.S. District Court for the Eastern District of Michigan in this matter.

Respectfully submitted,

/S/ Eric B. Gaabo (P39213)
gaabe@detroitmi.gov
Attorney for Defendant City of Detroit
Coleman A. Young Municipal Center
2 Woodward Avenue, 5th Floor
Detroit, MI 48226
(313) 237-3052

Dated: August 20, 2013

EXHIBIT 6-3

Order Adopting Report and Recommendation [162], Overruling Plaintiffs' Objection [164], and Granting in Part Plaintiffs' Motion for Attorney Fees and Costs [148]

in H.D.V. Greektown, LLC v. City of Detroit,

2:06-cv-11282-AJT-RSW

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

H.D.V. - GREEKTOWN, L. L. C., ET AL.,

Case No. 06-11282

Plaintiffs,

SENIOR U.S. DISTRICT JUDGE
ARTHUR J. TARNOW

v.

DETROIT, CITY OF, ET AL.,

U.S. MAGISTRATE JUDGE
R. STEVEN WHALEN

Defendants.

**ORDER ADOPTING REPORT AND RECOMMENDATION [162],
OVERRULING PLAINTIFFS' OBJECTION [164], AND GRANTING IN
PART PLAINTIFFS' MOTION FOR ATTORNEY FEES AND COSTS [148]**

Before the Court is a Report and Recommendation ("R&R") [162] entered on May 23, 2013, recommending granting in part Plaintiffs' Motion for Attorney Fees and Costs [148], and awarding \$385,401.12 in fees and costs to Plaintiff counsel for prevailing in the underlying action. Plaintiffs timely filed an Objection [164] and Defendants filed a Response [167]. On August 23, 2013 the Court stayed the Motion for Attorney Fees and Costs [148] because the municipal Defendant had filed for Chapter 9 bankruptcy on July 18, 2013. In December, 2014, the municipal Defendant emerged from bankruptcy; accordingly, the Court will now issue its ruling on Plaintiffs' Motion for Attorney Fees and Costs [148]. For the reasons that follow, Plaintiffs' Motion for Attorney Fees and Costs [148] is GRANTED and Plaintiff counsel is awarded \$372,118.19 in fees and \$13,282.93 in costs.

BACKGROUND

Plaintiffs obtained a \$2,950,000 settlement in this § 1983 action. Plaintiffs are closely held Michigan limited liability companies in the adult entertainment business. They alleged that Defendants violated mainly their First Amendment rights by hindering the operation of their business with regulations. The parties stipulated that the Court would decide the issue of attorney fees pursuant to 42 U.S.C. § 1988 and that Plaintiffs were the prevailing parties for the purpose of determining fees and costs.

STANDARD OF REVIEW

This Court reviews *de novo* the portions of the R&R [162] to which objections have been filed. 28 U.S.C. § 636(b)(1); FRCP 72(b). The Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.*

ANALYSIS

Plaintiff counsel seeks \$1,532,640.61 in fees and costs. Defendants concede that Plaintiff counsel is entitled to some fees, but argue that the amount the R&R [162] recommends—\$385,401.12—is reasonable.

“The primary concern in an attorney fee case is that the fee awarded be reasonable,” one that is adequate to attract competent counsel, but does not yield a windfall for lawyers. *Reed v. Rhodes*, 179 F.3d 453, 471 (6th Cir. 1999). The Court

begins by determining the fee applicant's lodestar, which is the proven number of hours *reasonably* expended on the case by an attorney, multiplied by her court-ascertained reasonable hourly rate. *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983) (emphasis added).

The R&R [162] calculates the lodestar using the hourly rates proposed by Plaintiff counsel themselves. The hourly rates were \$350, \$250, and \$200 for Attorneys Shafer, Pritzlaff, and Hoffer respectively. The R&R [162] concludes, however, that the total number of hours Plaintiff counsel claims to have expended is not reasonable. The reasons the R&R [162] found the number of hours to be unreasonable is two-fold. First, the Magistrate concluded that certain hours are not compensable here. Second, the remaining time spent on the case was excessive. Ultimately, the R&R [162] recommends a total fee-and-costs award of \$385,401.12. The Court agrees that \$385,401.12 is a reasonable award in this case.

Objection One: Sixty Percent Reduction in Fees

Plaintiffs object to the R&R's recommendation that the Court reduce the lodestar by sixty percent. The Magistrate's approach of making a flat percentage cut to attorney fees was well within methods accepted by United States Courts to avoid turning attorney-fee requests into a "second major litigation." *Hensley v. Eckerhart*, 461 U.S. 424, 438 (1983).

Plaintiffs' time sheets for fees are 113 pages long. Plaintiff counsel requests fees for things like communicating with the media, participating in administrative proceedings, watching the evening news, and for work related to the Jane Roe Plaintiffs who were voluntarily dismissed and received no legal relief from this action. Plaintiff counsel requests \$56,795 for preparation of its own fee Motion [148] and \$21,980 for preparation of the Reply [155] alone.

"The purpose of § 1988 is to ensure 'effective access to the judicial process for persons with civil rights grievances.'" HR REP. NO. 94-1558, p. 1 (1976). That fundamental purpose of § 1988 is hardly relevant, let alone compelling here. Plaintiffs are closely held, extraordinarily profitable companies whose access to the judicial and political processes is far greater than most citizens, as demonstrated by the very background of this case. Further removing this Motion [148] from the congressionally intended purpose of § 1988, is the nature of Plaintiffs' grievance in this case—they pursued the least constitutionally important type of First Amendment right. *Kiser v. Reitz*, 765 F.3d 601, 607 (6th Cir. 2014) (holding that advertisements and other commercial speech enjoy less rigorous First Amendment protection than other forms of expression).

Plaintiffs spared no expense protecting their right to utilize the First Amendment to seek pecuniary gain. "While parties to a litigation may fashion it according to their purse and indulge themselves and their attorneys . . . they may not

foist these extravagances upon their unsuccessful adversaries.” *King World Productions, Inc. v. Financial News Network, Inc.*, 674 F. Supp. 438, 440 (S.D.N.Y. 1987). The Court is not required to engage in a line by line analysis of Plaintiff counsel’s 113 pages of fee requests. In light of the indiscriminate approach counsel took to its fee petition and the tangential relationship compelling civil rights have to this case, the Court finds the R&R’s [162] sixty percent reduction recommendation in the lodestar is warranted. This yields a preliminary award of \$361,279.80 before accounting for Plaintiffs’ fee request for preparing its own Fee Motion [148].

Objection Two: Sixty Percent Reduction in Costs

Plaintiffs object to the R&R’s recommendation that their allowable¹ claimed costs—totaling \$33,207.34—should be reduced by sixty percent. Plaintiffs assert that the R&R double dips its reduction because Defendants requested a 50% reduction in attorney hour travel time and the R&R recommends a 60% reduction in travel costs. The award amounts recommended in the R&R [162] reveal that Plaintiffs’ double-dip argument is incorrect. Rather, the Magistrate simply did not grant Defendants’ piecemeal reduction request and implemented an across-the-board reduction without multiplying the reductions. The R&R [162] recommends a cost award of \$13,282.93, which is a 60% reduction from Plaintiffs’ allowable requested costs (\$33,207.34).

¹ Plaintiffs apparently concede in their Objection [164] that the \$164,921.49 in expert witness fees they attempted to recover in their Motion [148] are not allowable as a matter of law in an action under § 1983.

Plaintiffs also argue that the Magistrate cannot recommend reducing costs because they were actually incurred. As the R&R [162] states, it is the reasonableness of costs that is at issue. Just as the attorneys may have expended all of the hours claimed, it was not reasonable to expend so many hours in this case. Similarly, although the claimed costs may have actually been incurred, it was not reasonable to incur them. There is no reason, therefore, that the reduction for the unreasonable attorney fees should not be commensurate with the reduction for the unreasonable costs. A sixty percent reduction is warranted and Plaintiffs are awarded costs in the amount of \$13,282.93.

Objection Three: The Jane Roe Plaintiffs

Plaintiffs object to the R&R's recommendation that they are not entitled to an award of fees for their work on behalf of the Jane Roe Plaintiffs in this action. Plaintiff counsel argues this is true because the Jane Roe Plaintiffs were voluntarily dismissed after the Court entered the consent decree stipulating that Plaintiffs are the prevailing party in this action. That claim is patently false. The Consent Decree [145] was entered on August 23, 2011. The Jane Roe Plaintiffs were dismissed by Stipulation [144] twelve days earlier on August 9, 2011. The dismissal of the Jane Roes—the anonymous Plaintiffs whose speech undergirded the named Plaintiffs' First Amendment claims—before the Consent Decree [145] ensured that they received no relief from the \$2,950,000 award “by issuance of a check made payable to ‘H.D.V.-

Greektown, LLC, 415 East Congress, LLC, K&P, Inc., and Shafer and Associates, P.C., their attorneys.”

Objection Four: Ancillary Proceedings

The 2003 Initial Action

Plaintiffs object to the R&R’s recommendation that they are not entitled to an award of fees for their work related to *H.D.V.-Greektown, L.L.C., et al. v. City of Detroit*, No. 03-74887. The Order [14] dismissing the 2003 action by stipulation states “all claims in this action are dismissed without prejudice and without costs or an award of attorneys fees to any party.” As explained at length in the R&R [162], the placement of the phrase “without prejudice” in that sentence indicates that the substantive claims were dismissed without prejudice, but any claims for costs or fees were dismissed with prejudice. Plaintiffs are not entitled to collect fees or costs related to the 2003 action.

The Board of Zoning Appeals Proceedings

The R&R concluded that Plaintiffs are not entitled for their work before the Board of Zoning Appeals (“BZA”) because that work related to the claims in the 2003 action exclusively and, therefore, the fees are excluded for the same reason elaborated in the previous paragraph. Plaintiffs assert, without supporting, that their work at the BZA proceedings in 2004 gave rise to the bulk of their damage claims for lost business in this case in 2006. The work on the BZA proceedings was mostly

defending tickets issued to Plaintiffs for violations of Condition 18, which was the subject of the 2003 action. Consequently, the Court will not award fees for hours spent on the BZA proceedings.

The Conyers/Riddle Criminal Proceedings

Plaintiffs object to the R&R's recommendation that they are not entitled to an award of fees for their work related to the Monica Conyers and Sam Riddle criminal proceedings. During the government's investigation, Plaintiffs' client Joe Hall received a grand jury subpoena. Plaintiffs now seek fees for their work in relation to preparing for Hall's appearance before the grand jury. Although Plaintiffs argue that that criminal case was the sole basis for the submission of their Second Amended Complaint [84], the fact remains that the guilt or innocence of Conyers or Riddle in the criminal case did not dictate the result in this case. Plaintiffs object that the criminal proceedings had *res judicata* and collateral estoppel consequences to their claims in this action. That claim is unpersuasive as Plaintiffs could never be equitably barred from bringing claims as a result of a criminal action prosecuted by the federal government.

Objection Five: Fee Enhancement

Plaintiffs object to the R&R's recommendation that they are not entitled to a ten percent fee enhancement under *Perdue v. Kenny A. ex rel. Winn*, 559 U.S. 542 (2010). A *Perdue* enhancement is impermissible except in "rare and exceptional

circumstances” and the party seeking the enhancement bears the burden of proving the enhancement is warranted with specific evidence that the lodestar fee would not have been adequate to attract competent counsel. *Id.* at 554. Plaintiff counsel has failed to prove that the lodestar would be inadequate to attract competent counsel for a First Amendment case, given that the lodestar was calculated with a rate that falls above the 75th percentile of fees charged by civil rights lawyers.

Objection Six: Fees Related to the Attorney Fee Motion

Plaintiffs object to the R&R’s recommendation that their claimed fees for bringing their Motion for Fees and Costs [148] are excessive. In cases that result in settlement, the hours expended to prepare a fee petition should not exceed three percent of the total award for attorney hours in the underlying case. *Coulter v. State of Tennessee*, 805 F.2d 146, 151 (6th Cir. 1986). Since the Court has awarded \$361,279.80 in attorney fees, an additional \$10,838.39—three percent of the underlying award—is what is allowable for preparation of the fee petition.

For the foregoing reasons, the Court **HEREBY ADOPTS** the R&R [162]. Accordingly,

IT IS ORDERED Plaintiffs’ Motion for Attorney Fees and Costs [148] is **GRANTED IN PART.**

IT IS FURTHER ORDERED that Plaintiff Counsel is awarded \$372,118.19 in attorney fees.

IT IS FURTHER ORDERED that Plaintiff Counsel is awarded \$13,282.93 in costs.

IT IS FURTHER ORDERED that Plaintiffs' Objection [164] is **OVERRULED.**

SO ORDERED.

Dated: March 31, 2015

s/Arthur J. Tarnow
ARTHUR J. TARNOW
SENIOR U.S. DISTRICT JUDGE